

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4636 OF 2015

Shri Bharat S/o Tukaram Chamle
Aged; 45 years, Occu: Agril.,
R/o Arasnal Tq. Udgir, Dist. Latur,
Presently residing at Yeshwant
Society Udgir, Tq. Udgir,
Dist. Latur.

...PETITIONER

versus

1. The State of Maharashtra,
Through the Secretary,
In the department of Co-operation,
Mantralaya, Mumbai-32.
2. The Returning Officer/
Latur District Central Co-operative
Bank Ltd., Latur, Tq. And Dist. Latur
and District Deputy Registrar,
Co-operative Societies, Latur,
Tq. And Dist. Latur.
3. Shri Dilipraoji S/o Dagdojirao Deshmukh,
Aged: 62 years, Occu: Agril.,
R/o Babhalgaon,
Tq. and Dist. Latur.
4. The Latur District Central Co-operative
Bank Ltd., Latur, Tq. And Dist. Latur,
Through its Managing Director.
5. The Divisional Joint Registrar,
Co-Operative Societies,
Latur Division Latur.

...RESPONDENTS

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Mr. Ajinkya Reddy, Advocate for Petitioner
Mr. V.G. Shelke, A.G.P. For respondents No. 1, 2 and 5
Mr. V.D. Hon, Senior Counsel instructed by
Mr. N.P. Patil, Jamalpurkar, Advocate for respondent No. 3

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 21st APRIL, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally with consent of learned counsel for the parties.

2. After hearing the parties, from facutal aspects with which there is not much dispute, it appears that petitioner could not secure a seconder to his nomination as is required under the provisions of the Maharashtra Co-Operative Societies (Election to Committee) Rules, 2014, particularly Rule 20(3), (hereinafter said rules are referred to as "2014 Rules" for short). It is further pertinent to note that rules contemplate rejection of nomination in absence of the proposer or seconder to candidature of a person.

3. Learned counsel for petitioner contends that respondent No. 3 is politically influential person and has brought about situation wherein from 17 voters, petitioner could not secure even a single seconder. According to him, all other voters have been influenced by respondent No. 3, and had not seconded nomination of the petitioner. He further goes on to contend that rejection of his nomination is hit by doctrine of impossibility, since it was impossible for the petitioner to secure seconder to his nomination, due to influence of respondent No. 3.

4. Learned counsel for petitioner further contends that his nomination has also been rejected for the reason that requisite experience under amended bye-laws was not possessed by him. According to him, said bye-laws would not be applicable in this case, because it tends to act retroactively, in the sense, that it requires experience of management of two years in said society to which elections are to be held, whereas in earlier rules condition was experience of any society.

5. Learned senior advocate appearing for respondent No. 3, however, submits that claim about holding influence is vacuous. There is no material to support the same. It is the choice of the voter as to whom they should propose and to whom they should second. Neither anything has been brought on record before the election officer to indicate that the petitioner could not secure seconder because of the pressure or influence of respondent No. 3 nor any pressure, inducement or influence was in fact exerted for not proposing and seconding petitioner's nomination.

6. Learned senior counsel appearing for respondent No. 3 submits that all these are questions of facts and in absence of clinching material, in the nature of enquiry contemplated at this stage, the election officer appears to have properly exercised his powers as consideration of these factual aspects is out of his powers. These submissions, of course, are made only for the

purpose of arguments and it shall not be deemed that those allegations are accepted. It is submitted that there is no substance in the petition, as election officer as well as appellate authority have decided the matter in accordance with rules.

7. It is further being submitted that it is for his own failure to secure seconder, the petitioner is making allegations against respondent No.3 which do not bear any truth.

8. Perusal of the impugned order and requisite rules, particularly Rule 20(3) of 2014 Rules, show that there is infirmity in petitioner's nomination of a seconder to his candidature.

9. This is not a fit case wherein the court should grant indulgence to the petitioner. The order impugned does not suffer any error legal or otherwise. Writ Petition, therefore, stands dismissed. Rule stands discharged.

10. Dismissal of writ petition, however, would not be an impediment for the petitioner to avail of appropriate remedy, at appropriate stage.

Sd/-

(SUNIL P. DESHMUKH, J.)