

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

WRIT PETITION NO. 4782 OF 2015

Ramesh Nagraj Patil,
Age: 54 years, Occ: Agril.,
R/o Chorwad, Tq. Raver,
Dist. Jalgaon

...PETITIONER

versus

1. Returning Officer for Election of
Jalgaon District Central Co-op
Bank Ltd. Jalgaon @ Sub-Divisional
Officer, Jalgaon Sub-Division Jalgaon
Dist. Jalgaon.
2. Divisional Joint Registrar,
Co-Operative Societies,
Nashik Division Nashik.
3. Rajiv Raghunath Patil,
Age: 59 years, Occu: Agril.,
R/o Ainpur, Tq. Raver,
Dist. Jalgaon.
4. Jalgaon District Central
Co-operative Bank Ltd.,
Ring Road, Jalgaon, Dist. Jalgaon
Through its Managing Director.

...RESPONDENTS

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Mr. M.S. Deshmukh, Advocate holding for
Mr. D.B. Shinde, Advocate for Petitioner
Mr. D.R. Kale, A.G.P. For respondents No.1 and 2.

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 24th APRIL, 2015

ORAL JUDGMENT :-

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

2. Requirement of bye-laws is to have audit category as "A" or "B" of the concerned society. There is no dispute that the society having class "C" audit report is disqualified for being nominated on the managing committee / board of directors of the federal body. It is also not in dispute that for relevant year concerned primary society did not bear class of audit as is required under bye-laws, and as such nomination of the petitioner has been rejected. The petitioner is not disputing the class of audit as is required under bye-laws, for the relevant year.

3. Learned counsel appearing for petitioner, however, vehemently submits that conduct of the learned minister in vacating interim relief granting stay to the concerned bye-laws of the society requiring class audit "A" and "B" is improper, arbitrary and discriminatory, as in respect of elections of District Central Co-Operative Banks of some other districts, such interim relief granted by the minister has been continued. It is further being referred to that in writ petition bearing stamp No. 11155 of 2015 filed before this Court questioning interim relief granted by the minister, the division bench by order dated 13-04-2015 has opined that bye-laws regulating right of representation in management of co-operative society which are not in consonance with the provisions of the Act and the Rules is not liable to be

maintained. It is also clarified that opinion expressed is a *prima facie* opinion.

4. In the preset case, it is undisputed position that order of vacating interim relief by the learned minister has not been subject-matter of challenge in any of the proceedings before the High Court or Superior Court. In effect of order of the minister, as such, has become operative.

5. In the face of this situation, at the time of scrutiny of nomination, the election officer hardly can be said to have travelled beyond effect of order arising from the vacation of interim relief by the minister nor it was for the election officer to interpret the events which have occurred.

6. Although, it is being submitted that in this scenario High Court should invoke its powers arresting deterioration in situation by allowing writ petition and accepting nomination of the petitioner, the scope of present writ petition is to consider the orders passed by the election officer and maintained by the appellate authority. It is not desirable at this stage to tread on area of contentions of learned counsel for petitioner since division bench appears to be seized of the same. As such, I am not inclined to cause an interception in the order passed by the election officer and maintained by the appellate authority, at this

stage.

7. Writ petition, as such, stands dismissed. Rule stands discharged.

8. However, it would be open for the petitioner to take up appropriate proceedings against rejection of his nomination at proper stage including an election petition.

Sd/-

(SUNIL P. DESHMUKH, J.)

MTK