

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3565 OF 2015

Anna Govind Patil

.. Petitioner

Versus

Sarambalwadi Vividh Karyakari

Sahakari (Vikas) Seva Sanstha

Maryadit, Sarambalwadi and others

.. Respondents

Shri. S. S. Patwardhan with Shri. Ajay D. Magadum, for the Petitioner.

Shri. Mahesh M. Rawool, for the Respondent No.1

Shri. Amit Borkar, for the Respondent No.2.

Mrs. Vaishali Nimbalkar, AGP for the Respondent No.3.

WITH

WRIT PETITION (STAMP) NO.9457 OF 2015

Anna Govind Patil

.. Petitioner

Versus

Shri. Heleshwar Vividha Karyakari

Sahakari (Vikas) Seva Sanstha

Maryadit Vinayakwadi and others

.. Respondents

Shri. S. S. Patwardhan with Shri. Ajay D. Magadum, for the Petitioner.

Shri. Amit Borkar, for the Respondent No.1.

Mrs. Vaishali Nimbalkar, AGP for the Respondent No.3.

CORAM : R.M. SAVANT, J.

DATE : 30th APRIL, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 23.03.2015 passed by the District Co-operative Election Officer, by which order the objection raised by the Petitioners in respect of the inclusion of the name of the Respondent Nos.1 and 2 in the final list of voters came to be rejected.

2. The name of the Respondent No.2 to each of the above Petitions was included as a delegate of the Respondent No.1 in each of the Petitions for participating in the elections to the Kolhapur District Central Co-operative Bank Ltd.. In so far as the Respondent No.2 in each of the above Petitions are concerned, a resolution came to be passed on 13.02.2015 and 18.02.2015 (in Writ Petition No.9457 of 2015) nominating the Respondent No.2 as delegates of the Respondent No.1 society. It seems that in a subsequent meeting of the managing committee held on 04.03.2015 (in Writ Petition No.3565 of 2015) and the meeting dated 04.03.2015 (in Writ Petition St. No.9457 of 2015), the said nomination was not ratified. It is on the basis that since the nomination of the Respondent No.2 in each of the above Petitions as a delegate was not ratified, that the Petitioner raised an objection to the inclusion of the Respondent Nos.1 and 2 in the final list of voters prepared for the election to the Kolhapur District Central Co-operative Bank Ltd.. The District Co-

operative Election Authority after referring to the antecedent facts which have been afore-stated and thereafter relying upon the Division Bench judgment of this Court reported in 1991(2) Mh.L.J. 341, wherein it has been held that the non-ratification of the resolution in the subsequent meeting does not render the resolution ineffective, held that there was no merit in the objection raised by the Petitioner and accordingly rejected the said objection by the impugned orders both dated 23.03.2015.

3. It is the submission of the Learned Counsel for the Petitioner that in the absence of the ratification which is contemplated by bye law No.5A of the bye laws applicable to the Respondent No.1 society, the nomination of the Respondent No.2 as delegate was not proper and therefore the District Election Officer has erred in rejecting the objection raised by the Petitioner. The Learned Counsel for the Petitioner by relying upon the said bye law No.5A would contend that unless there is a ratification in the subsequent meeting of the decision taken in the earlier meeting, such a decision does not fructify.

4. Per contra, it is the submission of Shri. Amit Borkar, Learned Counsel appearing for the Respondent No.2 that the meeting in which the Respondent No.1 society in each of the Petitions did not ratify the decision taken in the earlier meeting were in fact fresh meeting and therefore, the

need to ratify the decision did not arise. The Learned Counsel sought to place reliance on the papers and proceedings of the meeting dated 13.02.2015 and 18.02.2015 as also 18.02.2015 and 20.02.2015 (in Writ Petition No.9457 of 2015) to buttress the said contention. In my view, to adjudicate upon the said aspect, certain factual aspects would have to be gone into to determine as to whether the meeting in question was a fresh meeting or an adjourned meeting. It is not possible for this Court to embark upon the said exercise in its Writ Jurisdiction under Article 227 of the Constitution of India.

5. In so far as the election programme is concerned, the Learned Counsel appearing for the Respondent No.2 states that the list of validly nominated candidates has already been put up and that what remains of the election programme is only voting which is to take place on 15.05.2015. Hence, for the afore-stated reasons, there is no warrant to interdict in the Writ Jurisdiction of this Court against the order passed by the District Co-operative Election Officer. The Writ Petitions are accordingly dismissed. However, it would be open for the Petitioner to adopt appropriate proceedings after the elections are over, if the occasion so arises.

[R.M. SAVANT, J]