

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.1269 OF 2015**

Popat Tukaram Patil

...Petitioner.

versus

S.B. Sonawane

Election Deciding Officer and others

..Respondents.

.....

Mr. Kedar J. Patil with Ms. Trupti A. Bharad for the Petitioner.

Mr. P.G. Sawant, AGP for the State.

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**CORAM : NARESH H. PATIL &
A.S. GADKARI, JJ.****9th February, 2015.****P.C. (Per A.S. GADKARI, J.) :**

The Petitioner by the present Petition has questioned the correctness of the order dated 31st January, 2015 passed by the Taluka Co-operative Election Officer and Assistant Registrar, Co-operative Societies, Tasgaon thereby rejecting the appeal preferred by the Petitioner under Section 152-A of the Maharashtra Co-operative Societies Act.

2. The Petitioner has filed his nomination form on 23rd January, 2015 for contesting the election for the post of director of Brahmanath Sarva Seva Co-operative Society Ltd., Vadgaon, Taluka Tasgaon, District Sangli. The said election is for the period 2014-15 to 2019-20. The Petitioner has filed his application from the 'General borrower'

constituency/ category. The nomination form of the Petitioner came to be rejected on the ground that the seconder of the Petitioner viz. Shri Dhondiram Pandharinath Patil was from B - Non Borrower constituency/ category and was not from the same class / category i.e. from 'General borrower' category. The Appellate Authority has rejected the appeal on the ground that the proposer and/or seconder of the Petitioner was not from the same category i.e. from 'General borrower' category and the seconder who had signed the nomination form was from the "Non borrower category". The Respondent No.2 rejected the appeal on the ground that the appellant did not comply with the provisions of the Maharashtra Co-operative Societies (Election To Committee) Rules, 2014 and in particular proviso to Rule 20(3) which reads as under :

“(3) Any person whose name is entered in the list of voters may be a proposer or seconder for nominating a candidate for election.

Provided that in the case of election from constituency of societies, the proposer and the seconder shall be from the same constituency except reservation falling under section 73B and 73C.”

3. The plain reading of the proviso makes it abundantly clear that in case of an election from a particular constituency of a society, the proposer and seconder **shall** be from the same constituency (emphasis supplied). The said proviso also carves out an exception

with respect to the nomination under Section 73B and 73C of the Maharashtra Co-operative Societies Act, which deals with reservation of certain seats on committees of societies, and reservation for women respectively. The proviso to Rule 20(3) of the said Rules makes it mandatory to have the proposer and seconder from the same constituency by making exception of Sections 73B and 73C of the Maharashtra Co-operative Societies Act.

4. As stated above, the Petitioner has failed to secure the seconder from the same constituency / category i.e. from 'General borrower' category. The Election Officer at the first instance and the Appellate Authority i.e. the Respondent No.2 has rightly rejected the nomination form of the Petitioner. We find no merit in the present Petition and we decline to interfere in our extra-ordinary jurisdiction under Article 226 of the Constitution of India to interfere with the decision of the Respondent No.2. The Petition is summarily rejected.

However, the Petitioner is at liberty to resort to appropriate alternate remedy as permissible in law, after after declaration of result of the election.

(Naresh H. Patil, J.)

(A.S. Gadkari, J.)