

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

WRIT PETITION NO.2574 OF 2015

Subhash Appa Patil

.. Petitioner

Versus

Chinchwad Vikas Seva Sanstha Maryadit

Chinchwad and others

.. Respondents

WITH

WRIT PETITION NO.2575 OF 2015

Shaukat Adam Mujawar

.. Petitioner

Versus

Chinchwad Vikas Seva Sanstha Maryadit

Chinchwad and others

.. Respondents

Shri. Ruturaj P. Pawar, for the Petitioner.

Shri. Amit Borkar, for the Respondent No.9.

Mrs. Vaishali Nimbalkar, AGP for the Respondent Nos.43 & 44.

CORAM : R.M. SAVANT, J.

DATE : 17th MARCH, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the orders both dated 5th March, 2015 passed by the District Election Officer by which orders the Appeals filed by each of the Petitioners above named came to be dismissed.

2. The said Appeals were directed against the rejection of the nomination forms of each of the Petitioners for the ensuing election to the Respondent No.1 society. The Petitioners are the members of one Indira Sahakari Dudh Vyavsaik Sanstha Limited, Chinchwad and as such they are entitled to participate in the elections of the Respondent No.1 society. The scrutiny of the nominations in the instant case took place on 16.02.2015 on which it was found that the Petitioners were defaulters in the sum of Rs.548.75 (Petitioner in Writ Petition No.2574 of 2015) and Rs.33.40 (Petitioner in Writ Petition No.2575 of 2015) and accordingly the Returning Officer rejected the nominations of the Petitioners.

3. The Petitioners aggrieved by the said rejection of the nomination forms challenged the same by filing Appeals before the District Election Officer. The District Election Officer as indicated above has by the impugned orders both dated 5th March, 2015 has rejected both the Appeals and the order passed by the Returning Officer rejecting the nomination forms of the Petitioners was thereby confirmed.

4. It is required to be noted at this stage that the election programme is at the stage where only voting remains to be done which is to take place on 20th March, 2015. The Learned Counsel appearing on behalf of the Petitioners sought to raise various contentions as regards the rejection of the nominations of the Petitioners on the ground that the

procedure prior to declaring the Petitioners as defaulters was not followed and therefore, the nominations of the Petitioners could not have been rejected. On the other hand, Shri. Amit Borkar the Learned Counsel appearing for one of the contesting Respondent i.e. Respondent No.9 in both the Petitions would rely upon affidavit filed by the said Indira Sahakari Dudh Vyavsaik Sanstha Limited, Chinchwad, before the District Election Officer in the Appeals and would contend that in view of the averments made in the said affidavit relating to the Petitioners being defaulters, the said aspect raises disputed questions of fact which cannot be gone into in the Writ Jurisdiction of this Court. Having regard to the stage at which the elections are at present namely that only the voting remains to be done, the interdiction of this Court in its Writ Jurisdiction is not warranted, the Writ Petitions are accordingly dismissed. However, the dismissal of the Petitions would not come in the way of the Petitioners from agitating the grievance in appropriate proceedings after the elections.

[R.M. SAVANT, J]