

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 2796 of 2015.

Mr Vijay Changdeo Nagare ..Petitioner.

Vs

The Returning Officer & Ors ..Respondents.

Petitioner in person.

Mr I.A. Patel, AGP for Respondent No.1.

Mr S.S. Dube for Respondent No.2.

**CORAM : V.M.KANADE &
A.R. JOSHI, JJ.**

DATE : 23rd March, 2015.

P.C.

1) Heard the petitioner who is appearing in person and the learned Counsel appearing on behalf of the Respondent Nos.1 and 2. The petitioner is aggrieved by rejection of his nomination paper by the Returning Officer. A preliminary objection is raised by the learned Counsel appearing on behalf of the State that the petitioner had an alternate remedy of filing an appeal under Section 152A of the Maharashtra Co-operative Societies Act, 1960. However, instead of availing the said remedy he has approached this Court directly by filing a writ petition. It is submitted that the other members whose nomination papers were rejected had availed remedy of filing appeal which is a statutory remedy.

2) It is not in dispute that the petitioner has an alternate remedy

available under section 152A of the said Act and instead of approaching the Appellate Court the petitioner has come to this Court directly. It is submitted that the petitioner is appearing in person that the impugned bye-law on the basis of which the petitioner has been disqualified was approved by the same authority and therefore, there is conflict of interest and the petitioner therefore has approached this Court. There is no substance in the submission made by the petitioner who is appearing in person. The petitioner ought to have availed the alternate remedy of filing an appeal under Section 152A. The bye-law was approved in the General Body Meeting and, therefore, there is no substance in the submission of the petitioner that because the said bye-law was approved by the authority there was conflict. The last day for withdrawal of the nomination papers is 25th March, 2015. Since the process of election is commenced, therefore, we are not inclined to interfere in the election process. The petitioner can always challenge the election on the ground of improper rejection of nomination. Writ Petition is dismissed reserving the said right of the petitioner.

(A.R. JOSHI, J)

(V.M.KANADE,J)