

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

WRIT PETITION NO. 3563 OF 2015

Shri Yashwant Gajanan Bhopi & Ors.

.. Petitioners

Vs.

The Thane District Central & Ors.

.. Respondents

Mr.Abhijit Purushottam Kulkarni with Mr.Manoj Badgujar for petitioners.

Mr.Bhushan Walimbe a/w. Mr.Shivram Mohate for respondent no.1.

Mr.V.S. Gokhale, AGP for respondent nos.2 and 3.

Mr.Kirit J. Hakani for respondent nos.11 and 14.

CORAM : A.S. OKA,

K.R. SHRIRAM, JJ.

DATED : 25TH AUGUST, 2015

P.C.

1 Heard the learned counsel appearing for the petitioners. Prayer 'B' of this petition reads thus :

(b) This Hon. Court be pleased to direct the appropriate officers of the State of Maharashtra to hold an open inquiry in respect of the functioning of respondent no.14-society more particularly the formation of managing committee and further be pleased to direct respondent no.13 and further be pleased to direct that appropriate action to be taken against the delinquent employees and/or the wrongdoers;

2 We have perused the annexures to the petition. We find that, before filing this writ petition, the petitioners have not approached any competent authority seeking enquiry about the functioning of respondent no.14-Society

which is the co-operative housing society incorporated under the Maharashtra Co-operative Societies Act, 1960.

3 The complaints/representations dated 18.02.2015 and 25.02.2015, which are relied upon by the petitioners, have been made essentially making a complaint about the illegality in the process of election held on 29.12.2014. The petitioners have not challenged the process of election in accordance with law. We have perused the complaints at Exh.'A' and 'B'. The complaints are addressed to the Assistant Registrar of the Co-operative Societies. The complaint is again about the alleged illegality in the process of election conducted by the Managing Committee of the said Society. We fail to understand what relief can be granted by the Assistant Registrar of the Co-operative Societies on the complaints/representations dated 18.02.2015 and 25.02.2015. The another representation dated 25.07.2015, has been made to the Hon'ble Chief Minister who is the Cabinet Minister for various department such as General Administration etc. The grievance made in the said representation is again about the alleged illegality in the process of election. The remedy of the petitioners is to challenge the election in accordance with law.

4 As far as prayer clauses (d) and (e) are concerned, the learned counsel appearing for the petitioners pointed out that as election of the Managing Committee of the first respondent has already been held, the said prayer would not survive. Hence, no orders can be passed in writ jurisdiction under Article 226 of Constitution of India.

5 It is for the Petitioner to adopt appropriate remedies. Subject to what is observed above, the Petition is rejected. We make it clear that we have made no adjudication on the issue of the legality and validity of the elections.

(K.R. SHRIRAM, J.)

(A. S. OKA, J.)