

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St.NO.9126 OF 2015**

Vishwas Barku Ghogare

..Petitioner

Vs.

Bhau Dattatray Bhaskar & Ors.

..Respondents

Mr. U. B. Nighot for the Petitioner

Mr. Y. S. Jahagirdar, Senior Advocate, i/b Mr. V. B. Tapkir for the Respondent No.1

Mrs Vaishali Nimbalkar AGP for the Respondent Nos.6 to 8

CORAM : R. M. SAVANT, J.

DATE : 6th APRIL, 2015

P.C.

1 The order dated 20-3-2015 passed by the Co-operative Election Authority and Divisional Joint Registrar, Co-operative Societies, Pune, by which order, the Dispute Application No.98 of 2015, filed by the Petitioner taking objection to the inclusion of the names of the Respondent Nos.1 to 4 in the above Petition in the provisional voters list, came to be rejected is taken exception to by way of the above Petition.

2 The names of the Respondent Nos.1 to 4 are appearing in the provisional voters list published pursuant to the election programme which has been declared for holding elections to the Board of Directors of the Respondent No.5 i.e. the Pune District Central Co-operative Bank Ltd., Pune. The objection to the inclusion of the names of the Respondent Nos.1 to 4 was on the ground that the Respondent Nos.1 and 4 are the Secretaries of the Junnar Taluka

Supervisory Society and the Respondent Nos.2 and 3 who were earlier working as clerks with the Respondent No.5 are now its Development Officers and are therefore ineligible or disqualified to be in the voters list on the application of Section 73CA of the Maharashtra Co-operative Societies Act, 1960.

3 The objection has been rejected on the ground that the report submitted by the Assistant Registrar Co-operative Societies in respect of the objections raised by the Petitioner was found acceptable by the District Co-operative Election Authority. In so far as the Respondent Nos.1 and 4 are concerned, the Assistant Registrar has observed that the concerned supervisory societies have passed a resolution in favour of the Respondent Nos.1 and 4 and in so far as the Respondent Nos.2 and 3 are concerned, the Assistant Registrar has observed that there is no material to indicate that they are the salaried employees of the Respondent No.5. The Assistant Registrar has further adverted to the passing of the resolutions by the supervisory societies of which the Respondent No.2 and 3 were the office bearers. In so far as the Respondent No.5 is concerned, it is an "A" class society and therefore the provisions of the Maharashtra Co-operative Societies Act in so far as "A" class of societies in the matter of elections to such societies, are applicable. In so far as the right to vote is concerned, the same is governed by Section 27 of the said Act which does not posit any bar as is sought to be urged on behalf of the Petitioner. As indicated hereinabove, the objection to the inclusion of the names of the

Respondent Nos.1 to 4 was on the application of Section 73CA of the said Act. A reading of the said provision discloses that the said provision applies in the matter of disqualification of committee and its members and is not applicable at the stage of the preparation of the voters list, except to the limited extent of clause 1(i) which is referable to Section 27(10) of the said Act. The said provision i.e. Section 73CA may come into play at the stage of filing of the nomination and if an objection is raised by a party in respect of the nomination filed by a person who is disqualified under the said provision, however the said provision i.e. Section 73CA has no application at the stage of preparing the voters list.

4 In my view, the objections raised on behalf of the Petitioner on the touchstone of Section 73CA to the inclusion of the names of the Respondent Nos.1 to 4 in the provisional voters list was therefore misconceived as Section 27 does not postulate any such disqualification for inclusion in the voters list. In that view of the matter, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]