

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4020 OF 2015**

Indubai Annaji Chavan

..Petitioner

Vs.

**District Co-operative Election Officer Cum
Divisional Deputy Registrar, Co-operative Societies
Nashik Division, Nashik, & Ors.**

..Respondents

**Mr. S. K. Shinde i/b Ms Prabha Badadare for the Petitioner
Mr. S. D. Rayrikar AGP for the Respondent Nos.1 & 7**

CORAM : R. M. SAVANT, J.

DATE : 20th APRIL, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 23-3-2015, passed by the District Co-operative Election Officer Cum Divisional Deputy Registrar, Co-operative Societies Nashik Division, Nashik, by which order, the District Co-operative Election Officer, has held that in view of the order dated 26-2-2015, passed by this Court in Writ Petition No.2044 of 2015, it would not be appropriate to include the name of the Petitioner in the final list of voters as a delegate of the Dhandri Vividh Karyakari Seva Society for the ensuing election of the Nashik District Central Co-operative Bank Ltd. In so far as the nomination of the delegate of the said Dhandri V. K. S. Society is concerned, it seems that the Chairman of the said society had resigned on 4-2-2015 and one Nitin Chavan was appointed as the Chairman in the meeting of the Managing Committee held on the same day. Thereafter under the Chairmanship of the said Nitin K.Chavan, a meeting of the Managing

Committee was held on 18-2-2015 where a resolution came to be passed by the Managing Committee nominating the Petitioner to be the delegate of the said Dhandri V. K.S. Society for participating in the election to the Nashik District Central Co-operative Bank Ltd., which was taken exception to by some members of the said society by filing a Writ Petition in this Court being Writ Petition No.2044 of 2014. The appointment of the Chairman was challenged on the touchstone of Section 73CB of the Maharashtra Co-operative Societies Act, on the ground that the appointment / nomination of the Chairman could only be pursuant to a process which is initiated by the District Co-operative Election Officer and that the Managing Committee did not have any right to do so under the provisions of the said Act. The said Writ Petition has come up for admission before a learned Single Judge of this Court on 26-2-2015, when notice came to be issued and ad-interim relief in terms of prayer clause (c) came to be granted. The consequence of the grant of such ad-interim relief was that the further implementation of the nomination of the Respondent No.4 i.e. the Chairman in the said Writ Petition No.2044 of 2015 was stayed. The first phase of the election programme coincided with the filing of the said Writ Petition challenging the appointment / nomination of the said N. K. Chavan as the Chairman of the Dhandri V. K.S. Society. In view of the ad-interim relief granted in the said Writ Petition the members who are the Respondent Nos.2 to 6 herein raised an objection to the inclusion of the name of the Petitioner in the provisional list of voters, their objection was founded on the order dated

26-2-2015 passed in the said Writ Petition No.2044 of 2015. The said objection was upheld by the District Co-operative Election Officer who by the impugned order dated 23-3-2015, has directed the removal of the name of the Petitioner from the final list of voters. As indicated above, it is the said order dated 23-3-2015, which is taken exception to by way of the above Petition.

2 The Learned Counsel for the Petitioner would contend that since the order dated 26-2-2015 is subsequent to the resolution passed in favour of the Petitioner i.e. dated 18-2-2015, the said order ought not to have any impact on the Petitioner's nomination as a delegate of the said society. The Learned Counsel would also question the jurisdiction of the Election Officer to enter into an inquiry as regards the nomination of the Petitioner as a delegate as according to the Learned Counsel the same is not contemplated under Rule 11 of the Election to Committee Rules.

3 In my view, it is not possible to accept the contention urged on behalf of the Petitioner. As indicated above, the Petitioner was nominated by the Managing Committee in the meeting held on 18-2-2015 which meeting was presided by a Chairman who was invalidly appointed / nominated having regard to Section 73CB of the said Act. The power to over see the appointment / nomination of the Chairman is that of the District Co-operative Election Officer and not the Managing Committee. If that be so, the

constitution of the Managing Committee being defective, the resolution passed by such committee cannot enure to the benefit of the Petitioner. This Court having deemed it appropriate to stay the said resolution whilst issuing notice in the said Writ Petition No.2044 of 2015, the District Co-operative Election Officer was right in taking cognizance of the said order passed by a Learned Single Judge of this Court, in the said Writ Petition. It is required to be noted that the second phase of the election programme has commenced and is at the stage where nominations are to be filed, which stage would go on till 24-4-2015. In my view, having regard to the facts as aforestated and since the election programme is on going, the interdiction of this Court in its Writ Jurisdiction is not warranted. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]