

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION St. NO.12644 OF 2015**

- | | | |
|----|---------------------------------------|---------------------|
| 1] | Smt. Shobatai Jagganath More |] |
| | Age : Major |] |
| | On behalf of Kokangaon V.K.S. Society |] |
| | Kokangan Taluka Niphad |] |
| | District Nashik. |] |
| | |] |
| 2] | The Chairman, Kokangaon V.K.S.Society |] |
| | Kokangan Taluka Niphad |] |
| | District Nashik |]..... Petitioners. |

versus

- | | | |
|----|---------------------------------------|---------------------|
| 1] | The Nashik District Central |] |
| | Co-operative Bank Limited |] |
| | Nashik |] |
| | (Deleted) |] |
| | |] |
| 2] | The District Co-operative Election |] |
| | Shri M.A. Arif, |] |
| | Officer/The Assistant Joint Registrar |] |
| | Nashik Division, Nashik. |] |
| | |] |
| 3] | Shri Satish B. Khare |] |
| | Returning Officer, |] |
| | The Nashik District Central |] |
| | Co-operative Bank Limited |] |
| | Nashik. |] |
| | |] |
| 4] | Secretary State Election Authority |] |
| | The Nashik District Central |] |
| | Co-operative Bank Limited |] |
| | Nashik. |]..... Respondents. |

Mr. P. N. Joshi for the Petitioners
Mrs. Gauri Rao AGP for the Respondents

CORAM : R. M. SAVANT, J.

DATE : 8th MAY, 2015

ORAL JUDGMENT

1 At the outset, the Learned Counsel for the Petitioners seeks deletion of the Respondent No.1 as in the context of the relief sought by the Petitioners, the said Respondent is only a formal party. The said Respondent is accordingly allowed to be deleted at the risk of the Petitioners.

2 The cause for invoking the Writ Jurisdiction of this Court is the fact that the Petitioner No.1's name does not appear in the final list of voters as a delegate of the Petitioner No.2 society for the ensuing elections to the Nashik District Central Co-operative Bank Ltd. (Nashik DCC). It appears that the provisional list of voters was prepared for the elections to the Nashik DCC and though the name of the Petitioner No.2 was shown, the name of the delegate was not appearing in the voters list as it appears that the Managing Committee of the Petitioner No.2 at the time had not sent the name of the delegate. The Learned Counsel appearing for the Petitioners attributes this to the inter-se dispute between the members of the Managing committee. Since the tenure of the Managing Committee of the Petitioner No.2 society was to get over on 1-3-2015, the elections were held to the Managing Committee of the Petitioner No.2 and pursuant to which the elections, the results of the same were declared on 1-3-2015. Hence the new Managing Committee is in office since 1-3-2015.

3 The Managing Committee having regard to the fact that the election process to the Nashik DCC was on going resolved on 19-3-2015 to nominate the Petitioner No.1 as its delegate to participate in the elections of the Nashik DCC. The said letter of the Petitioner No.2 was received by the District Deputy Registrar Co-operative Societies on 19-3-2015 itself. The Assistant Registrar taking cognizance of the said letter dated 19-3-2015 vide his letter dated 8-4-2015 to the District Deputy Registrar, informed that the delegate of the societies including the Petitioner No.2 mentioned in the said letter may be included in the voters list as the same can be done by having recourse to Rule 10(4) of the Election to Committee Rules. However, when the final list of voters was published, the name of the Petitioner No.1 as delegate of the Petitioner No.2 was not appearing though changes were made in respect of the delegate of other societies pursuant to the change effected by the said societies in respect of their delegates. At this stage, it is required to be noted that the direction was issued by the District Deputy Registrar to intimate the change in the delegates latest by 19-4-2015. In the instant case, as indicated above, the intimation as regards the inclusion of the name of the Petitioner No.1 was sent to the District Deputy Registrar on 19-3-2015 which is much prior to the cut of date i.e. 19-4-2015.

4 The non inclusion of the name of the Petitioner No.1 as delegate of

the Petitioner No.2 was sought to be justified on the ground that initially the name of the delegate was not informed and therefore there was a blank appearing against the Petitioner No.2 society in the provisional list of voters as also the final list of voters. In my view, the said contention if accepted would amount to taking a highly hyper technical view of the matter since the Managing Committee had come into office and it had resolved to send the name of the Petitioner No.1 as its delegate. In the fact situation as above, the powers under Section 10(4) were available to the Returning Officer to include the name of the Petitioner No.1. Hence the above Petition is required to be allowed and is accordingly allowed. The Respondent No.3 herein is directed to include the name of the Petitioner No.1 in the final list of voters. The Learned Counsel appearing for the Petitioners states that the Petitioner No.1 is only interested in voting and not filing her nomination for the elections. Statement accepted. The Petitioner No.1 would accordingly be entitled to only vote in the ensuing elections to the Nashik DCC. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute in the aforesaid terms with parties to bear their respective costs of the Petition.

4 The parties to act upon a copy of this order duly authenticated by the Court Shirestedar.

[R.M.SAVANT, J]