

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

WRIT PETITION NO.4523 OF 2015

Mr. Anil Amarlal Khathurani

.. Petitioner

Versus

The Returning Officer,

The Navjeevan Co-op. Bank and others

.. Respondents

Shri. Mahindra B. Deshmukh, for the Petitioner.

Shri. Purushottam Khanchandani, for the Respondent No.1.

Mrs. Vaishali Nimbalkar, AGP for the Respondent Nos.3 & 4.

CORAM : R.M. SAVANT, J.

DATE : 05th MAY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 28.04.2015 passed by the Returning Officer, by which order the nomination filed by the Petitioner was rejected on the ground of non-compliance of bye law No.40 in the matter of subscribing to the shares worth Rs.15,000/- of the Bank in question. The shares which are to the credit of the Petitioner are to the extent of Rs.9250/-. However, pursuant to 97th amendment to the Constitution of India the bye laws of the society were amended which included bye law No.40 which prescribes the eligibility for contesting election to the Respondent No.2 Bank. In terms of the eligibility conditions, the intending contestant has to subscribe to

shares worth Rs.15,000/- of the Respondent No.2 Bank. However, the Petitioner had only shares of Rs.9,250/- and therefore had not complied with the said bye law No.40. It is the contention of the Learned Counsel for the Petitioner that the amended bye law was not brought to the notice of the Petitioner and therefore, Petitioner was in the dark about the said bye law as regards the required shares worth Rs.15,000/-. However, the Learned Counsel appearing on behalf of the Respondent No.3 would contend that the notice of the general body meeting which was held on 14.04.2013 was issued in the local newspapers on 02.04.2013 and 03.04.2013 as also the proposed amendments to the bye laws were kept in the office of the Respondent No.2 Bank and therefore, the Petitioner cannot be heard to say that he was not aware of the amended bye law No.40. The said amended bye laws have come into force and almost after a lapse two years that the Petitioner at the time of scrutiny of the nomination sought to make a request to comply with the said bye law.

2. In the light of the contentions urged by the Learned Counsel for the Respondent No.3 there is no merit in the contention of the Learned Counsel for the Petitioner that the Petitioner was not aware of the amendment carried out to the bye laws. The Petitioner as a member of the Respondent No.2 Bank is expected to know of the amended bye laws which have come into force pursuant to the resolution passed by the

general body as well as the approval granted by the Registrar of Co-operative Societies. The order passed by the Returning Officer rejecting the nomination of the Petitioner on the ground that the Petitioner has not complied with bye law No.40 cannot be taken exception to. It is also required to be noted that the election process is at the final stage. No case for interference in the Writ Jurisdiction of this Court is therefore made out. The Writ Petition is accordingly dismissed. Needless to state that it would be open for the Petitioner to file appropriate proceedings after the elections are over if the occasion so arises.

[R.M. SAVANT, J]