

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

WRIT PETITION (STAMP) NO.14979 OF 2015

Shri. Robert David Chaudhari

.. Petitioner

Versus

Additional Commissioner and Special

Registrar Co-operative Societies,

Maharashtra State, Pune and others

.. Respondents

Mr. A. D. Sale, for the Petitioner.

**Mr. Kirit J. Hakani a/w Mr. Rahul K. Hakani, Ms. Niyati K. Hakani a/w
Ms. Reena S. Rana, for the Respondent No.2.**

Ms. M. S. Bane, "B" Panel Counsel for the Respondent No.1.

Mr. Brian D'Limo, for the Respondent No.3.

CORAM : R.M. SAVANT, J.

DATE : 10th JUNE, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 06.06.2015 passed by the Additional Commissioner and Special Registrar, Co-operative Societies, Maharashtra State, Pune by which order the Appeal filed by the Petitioner being No.55 of 2015 came to be dismissed. The Petitioner was desirous of contesting the election to the Board of Directors of the Respondent No.3 Bank i.e. Bassein Catholic Co-operative Bank Ltd. The election programme was announced on 19.05.2015 and in terms of the said election programme the nominations

were to be filed from 19.05.2015 to 25.05.2015 and scrutiny was to take place on 26.05.2015. The Returning Officer at the time of the scrutiny found that the Petitioner was not eligible to contest the election as having not complied with bye law No.40, which postulates that the candidate who desires to contest the election has to hold shares worth Rs.15,000/- and must have a deposit of Rs.1,00,000/- with the Bank. In so far as the holding of shares is concerned, there is no dispute about the fact that the present Petitioner hold shares to the said extent. However, the Petitioner has fallen foul of the condition that the candidate must have a deposit of Rs.1,00,000/- with the Bank. The Retuning Officer on perusal of the record of the Bank rejected the nomination on the ground that the Petitioner did not hold the said deposit of Rs.1,00,000/- as postulated by the said bye law No.40.

2. Being aggrieved by the rejection of the nomination by the Returning Officer, the Petitioner filed an Appeal before the Additional Commissioner and Special Registrar, Co-operative Societies who as indicated above by the impugned order dated 06.06.2015 has rejected the Appeal by reiterating the ground of rejection of the Returning Officer.

3. The Learned Counsel appearing on behalf of the Petitioner Mr. A. D. Sale would contend that the Petitioner has fixed deposit receipts of over Rs.25,00,000/- in the joint names of his mother, he himself and his

wife. The Learned Counsel for the Petitioner sought to buttress the said submission from the letter of the Bank received by him under the RTI Act.

4. Per contra, the Learned Counsel appearing for the Respondent No.2 Mr. Hakani and Learned Counsel for the Respondent No.3 Mr. Brian D'Lima would support the rejection of the nomination of the Petitioner. The Learned Counsel would contend that on 25.05.2015 i.e. a day prior to the scrutiny of nominations which is the cut off date the Petitioner had a balance of Rs.91,521/- in his account and to get over the same the Petitioner on the next day i.e. on 26.05.2015 had made two deposits of Rs.50,000/- so as to get over the rigors of the said bye law No.40 in the matter of having a deposit. It is the contention of the Learned Counsel appearing for the said Respondents that the Petitioner was very well aware that the compliance of the said bye law No.40 could not be on the basis of the fixed deposit in the joint names and therefore had made the two deposits of Rs.50,000/- on 26.05.2015 i.e. on the date of scrutiny. The Learned Counsel therefore prayed that there is no merit in the above Petition and that the same be dismissed.

5. Having heard the Learned Counsel for the parties, I have considered the rival contentions. In the instant case, it is required to be noted that the election programme is at the fag end and what remains now is only the voting which is to take place on 21.06.2015. The final list

of candidates is to be published tomorrow. In so far as the Petitioner is concerned, there is merit in the contention urged on behalf of the Respondent Nos.2 and 3 that the benefit of the fixed deposit in the joint names, wherein the name of the mother of the Petitioner is shown as the first holder cannot be taken to contend that there is compliance of the said bye law No.40. The fact that the Petitioner made the said two deposits of Rs.50,000/- on 26.05.2015 also indicates that the petitioner very well understood that the said bye law No.40 in the matter of having a deposit with the Bank was required to be complied with and had therefore deposited the said two amounts of Rs.50,000/- on 26.05.2015. In my view, therefore, the order passed by the Returning Officer rejecting the nomination of the Petitioner as confirmed by the Appellate Authority does not merit any interdiction at the hands of this Court moreso having regard to the fact that the election programme is at the fag end. Hence, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]