

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION (STAMP) NO.18691 OF 2015**

Mr. Mustafa Hussain Siddiqui

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Mr. Mustafa Hussain Siddiqui- Petitioner in person present.

Mrs. V. S. Nimbalkar, AGP for the Respondent Nos.1 & 2.

CORAM : R.M. SAVANT, J.

DATE : 24th JULY, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the communication dated 29.06.2015 addressed by the Authorized Officer of the Pushkaraj-2 Co-operative Housing Society Ltd., which communication is addressed to the Deputy Registrar of Co-operative Societies by the said Authorized Officer. The Authorized Officer has referred to an order passed by this Court dated 22.06.2015 passed in Writ Petition (Stamp) No.15646 of 2015 filed by one Venkatesh V. Iyer against the State of Maharashtra and the authorities exercising power under the Maharashtra Co-operative Societies Act and thereafter has observed that the elections to the said society would have to be held as per the programme applicable to "C" class of societies and that the Deputy Registrar may make arrangements for holding the elections by appointing another officer as the said

authorized officer is busy with some other matters. In so far as the said Writ Petition is concerned, the same was filed by a officer bearer of the said society questioning the method of voting which was to be adopted i.e. of show of hands in the meeting which was to be held for the said purpose on 05.07.2015. This Court had recorded the statement made by the Learned AGP that the said letter dated 10.06.2015 in which the said method of election is mentioned would be withdrawn and that the election would be held by secret ballot. In view of the said statement, the said Petition came to be disposed of. After the said Petition was disposed of that the impugned communication has been addressed by the Authorized Officer to the Deputy Registrar, Co-operative Societies. It seems that prior thereto a communication dated 30.06.2015 was addressed by the Deputy Registrar, Co-operative Societies MHADA to the AGP seeking clarification in respect of the order dated 22.06.2015. The Learned AGP Mrs. V. S. Nimbalkar states that the queries raised by the officer in the said letter were replied to by her. It seems that thereafter the Registrar by his order dated 17.07.2015 has appointed one Chandrashekhar Dongarwar, Assistant Co-operative Officer as the Authorized Officer/Returning Officer for holding elections to the said Pushkaraj-2 Co-operative Housing Society Ltd.. The Authorized Officer has issued notice bearing today's date i.e. 24.07.2015 informing the members of the said society that he has been appointed as the Returning Officer and

that he is announcing the programme for the elections to the managing committee for the term 2015-2020. To the said notice is annexed the election programme, in terms of which the nominations are to be filed from 29.07.2015 till 31.07.2015 and after going through the gamut of the processes mentioned in the election programme, the voting is to take place on 30.08.2015. The Learned AGP states that the said election programme is one applicable to the "C" class society, though the society in question belongs to the "D" class. This the Learned AGP states is in view of the first proviso to Rule 76(2) of the said Act, whereby the procedure under Rule 75 can be made applicable if a society passes resolution to the said effect. It seems that in the instant case, the said Pushkaraj-2 Co-operative Housing Society Ltd. has passed a resolution on 29.03.2015, wherein the society has resolved to conduct the elections in terms of Rule 75. The acceptance of the said Resolution of the society by the Deputy Registrar therefore, cannot be found fault with. In my view, since the election programme has already been announced by a notice issued today by the Authorized Officer, there is no warrant to keep the above Petition pending which to accordingly stand disposed of. The grievance of the Petitioner therefore does not survive. The Authorized Officer is directed to proceed with the election programme as announced by him.

[R.M. SAVANT, J]