

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7299 OF 2015

[Bapusaheb Jagannath Kamble and others .vs. State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.S. Shah, Adv. i/b Ms. Manjiri Parasnis, Adv. for the petitioners,
Mr. S.S. Kanetkar, Adv. for the respondent no.9,
Mr. P.G. Sawant, AGP for the State.

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CORAM : NARESH H. PATIL &
S.B. SHUKRE, JJ.

DATE : JULY 27, 2015.

P.C.

The petitioner filed this petition on 24th July, 2015. The grievance of the petitioner is that the election programme was not published in widely circulated newspapers and was not affixed on the notice board of the society, which are scattered in various districts. Learned counsel appearing for the petitioner has placed reliance on several judgments. It is further submitted that in accordance with Rule 19 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014, the election programme ought to have been published on the notice board.

Learned counsel appearing for respondent no.9 submits that the provisions of Rule 19 have been amended and the State Notification issued in this regard on 11th September, 2014 is placed on record. Rule 19 reads as under :

*“19. Manner of publication of election programme –
(1) The District Co-operative Election Officer shall send a copy of the order made under Rule 18 in FORM 'E-4' to the society either personally or by special messenger or by registered post to the society at the registered address with instruction to display the copy of the program on the notice board or website of the*

society in addition the said election program may be displayed on his notice board or website on behalf of the SCEA.

(2) The time during which poll shall be taken should be mentioned in the election programme.

(3) Wherever it is necessary to fix time, date and place for any stage in the election programme, it shall be fixed by the Returning Officer and shall be mentioned in the election programme declared by him.

(4) The Election Programme shall also be published at least in one local daily newspaper for a society or class of societies by the Returning Officer or SCEA, as the case may be :

Provided that, in case of societies of 'C' and 'D' types election program may be published on the notice board of the society and local body situated in the area of operation, as the case may be.

(5) Except with the previous approval of the SCEA, the dates fixed under this rule shall not be changed within seven days of the date fixed for the poll.”

Learned AGP submits that publication of election as per the proviso to Rule 19 (4) is applicable to societies of 'C' and 'D' types and that the present society does not fall in 'C' or 'D' type. Learned A.G.P. further submits that even then in accordance with the letter and spirit of the provisions of the Act and Rules, election programme was published. Learned AGP, on instructions from the Election Officer Shri A.T. Sakore, who is present in the court, submits that in Pune head office and Aurangabad branch, it was published in the newspapers and the programme was published on the notice boards of the Societies scattered in various districts. This statement is supported by the learned counsel appearing for respondent no.9.

We have perused the judgments cited. The election programme is placed on record. The last date of withdrawal of

nomination is tomorrow i.e. 28th July, 2015. In view of the provisions of the Rule cited above and the fact that the elections are well under way, we are not inclined to interfere into the matter at this stage in exercise of extraordinary jurisdiction. However, the petitioner is at liberty to resort to alternate remedies, as permissible in law, after the declaration of results of the election.

Keeping all issues on merits open, writ petition is disposed of.

[S.B. SHUKRE, J.]

[NARESH H. PATIL, J.]