

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

WRIT PETITION NO.10138 OF 2015

Najmusakib Mohomad Amin Lambate .. Petitioner.
Vs.
Sunil Shankarrao Choudhari,
Returning Officer, The Revdanda
Co-operative Urban Bank Ltd. & Ors. .. Respondents.

**WITH
WRIT PETITION NO.10139 OF 2015**

Prabhakar Dharma Naik .. Petitioner.
Vs.
Sunil Shankarrao Choudhari,
Returning Officer, The Revdanda
Co-operative Urban Bank Ltd. & Ors. .. Respondents.

**WITH
WRIT PETITION NO.10140 OF 2015**

Ramchandra Jawaru Patil .. Petitioner.
Vs.
Sunil Shankarrao Choudhari,
Returning Officer, The Revdanda
Co-operative Urban Bank Ltd. & Ors. .. Respondents.

Mrs. Mugdha J. Patil for the Petitioners.
Mr. S. D. Rayrikar AGP for the Respondent – State.
Mr. Pradip K. Patole for Respondent No.4.
Mr. C.G. Gavnekar i/b Suhas S. Deokar for the Respondent No.5.

CORAM : A.K. MENON, J.

DATED : 21ST OCTOBER, 2015

P.C. :

1. These petitions can be conveniently disposed of by the common order which deals with rejection of the objections raised to the nominations of

the petitioners for ensuing elections wherein the petitioners are contesting the the elections for the post of member of Board of Directors of respondent no.4 bank. It is the case of the petitioners that objections to the nominations were filed on 8th October, 2015, immediately on coming to know of the fact that respondent no.5 in each of these matters had not complied with bye-law No.40 of the bank which required the contesting parties to hold shares of the bank of face value of Rs.5,000/- as also keep fixed deposit of Rs.25,000/-. It is the case of the petitioners that the aforesaid respondents had not complied with these requirements and hence nominations forms are to be rejected.

2. Respondent no.1 Returning Officer has considered the objections on very same day and observed that although bye-law No.40 may have been approved the same could not be notified and brought to the attention of all members. The learned counsel for the petitioners has relied upon the fact that public notice of the meeting whereat bye-law No.40 was proposed was issued as early as 30th March, 2013 in the local newspapers. The said notice appears at Exhibit-E to the petition wherein the public at large specifically the members of the bank were informed of the fact of amendment to the bye-law. The notice copy of which appears at Exhibit-E brought to the attention of the members and public at large that the amendments to the bye-laws were contemplated.

3. It is the case of the petitioner that after the meeting was held bye-law No.40 was incorporated and post approval, the same was notified in

the newspaper and that it was communicated to the Joint Registrar Co-operative Societies on 18th November 2013 and same came to be approved by following due process. Therefore amended bye-law came in the effect on 18th November, 2013. According to the petitioner the amended bye-laws were kept in office of respondent no.1 and that there was no provision for publication of these bye-laws, after publication of the election program. The petition proceeds on the basis that respondent no.5 ought to have been aware of bye-laws and on that basis he was not qualified to contest the elections.

4. On scrutiny of the record it appears that the approval of bye-laws were never communicated by public notice or by any circular. Moreover, even the notice calling for meeting which is published in the newspapers does not draw attention of the member that the bye-law No.40 was sought to be introduced. Even after the same was approved and assuming in favour of the petitioners, that the bye-law came in force on 18th November, 2013 it is not the case of the petitioners that all members were aware on account of same being communicated to them in any manner.

5. In the circumstances there is nothing to show that respondent no.4 bank had communicated the amended bye-laws even when the election program was declared on 3rd October, 2013 when notice of the election programme came to be published in the local newspapers. There is no mention of the fact that the parties interested in contesting election should comply with the amended bye-laws. Even at that stage the prospective

contestants were not put to notice of the fact of such requirement which would otherwise result in disqualification. In this view of the matter it would not be possible to hold that the impugned order is perverse or arbitrary.

6. Moreover Mr. Gavnekar, learned counsel appearing for respondent no.5 in all matters aforesaid three petitions confirms that the respondent concerned had since made remittances of all amounts of deficit subscription of shares. Besides all three respondents are in compliance of the requirement of deposits of Rs.25,000/-. It is case of the petitioner that respondent no.5 in Writ Petition No.10138 of 2015 was not compliant as far as the quantum of deposit is concerned since he was not holding requisite amount of fixed deposit but he had otherwise complied with requirement of share holding of more than Rs.5,000/-. In the circumstances I do not find this case as fit case for interference in the extra ordinary jurisdiction of this Court. I therefore pass the following order :

- (i) The writ petitions are dismissed.
- (ii) It will be open to the petitioners to adopt such proceedings in law as may be available to them without being influenced with the observations of this order.
- (iii) There will be no order as to the costs.

(A.K.MENON, J.)