

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 803 OF 2015

Saini Gobind Singh

..... Petitioner.

V/s

Punjab and Maharashtra
Bank Limited and Others

..... Respondents.

Mr. S.M. Gorwadkar i/b Mr. N.A. Mogre for the Petitioner.
Mr. N.N. Bhadrashete for Respondent No.1.
Mr. Bhupesh Samant for Respondent No.2.

**CORAM: V. M. KANADE &
A.R. JOSHI, JJ.**

DATE: 20th March, 2015

P.C.:-

1. Mentioned, not on board. Upon mentioning, taken on board.
2. Heard the learned Counsel appearing on behalf of the Petitioner and the learned Counsel appearing on behalf of the Respondents.
3. Grievance of the Petitioner is that his nomination paper has been improperly rejected. The reason given by the

Returning Officer for rejecting his nomination was that he did not attend three consecutive general body meetings. The Returning Officer has mentioned below the Nomination Form that the Petitioner incurred disqualification as per bye-law No.32 of the Bank. Bye-law No.32 states that if a person does not attend three consecutive meetings then he can be disqualified. The learned Counsel appearing on behalf of the Bank has submitted that record of the Bank indicates that the Petitioner remained absent in three consecutive meetings of the general body.

4. On the other hand, the learned Counsel for the Petitioner submitted that the Petitioner would have incurred disqualification if there was no condonation of his absence in three consecutive meetings of the general body. He submitted that since no such order has been passed, it cannot be said that the Petitioner stood disqualified.

5. It is not possible to accept the said submission made by the learned Counsel appearing on behalf of the Petitioner. As rightly pointed out by the learned Counsel appearing for the Bank that the Petitioner ought to have applied for condonation of his absence and only then the Bank could have taken a decision whether his absence should be condoned or not. In the absence of the Petitioner having made such application, question of condoning his absence in

the three consecutive meetings of the general body does not arise and, therefore, by virtue of section 43(1)(n) of the Multi-State Co-operative Societies Act, 2002 the Petitioner was rightly held to be disqualified. The said section 43(1)(n) of the said Act reads as under:-

43. Disqualification for being a member of board.-(1) No member of any multi-State co-operative society or nominee of a member,

society or national co-operative society shall be eligible for being chosen as, or for being a member of the board of such multi-State co-operative society or a national cooperative society, or of any other co-operative society to which the multi-State co-operative society is affiliated, if such member -

(a)..... to (m)

(n) absents himself from three consecutive general body meetings and such absence has not been condoned by the members in the general body.”

The record presented by the Bank indicates the absence of the Petitioner on three consecutive meetings of the general body. There is therefore no illegality committed by the Returning Officer. There is no substance in the submissions made by the learned Counsel appearing on behalf of the Petitioner. Petition is dismissed.

6. At this stage, the learned Counsel appearing on behalf

of the Petitioner submits that the observations made by this Court while disposing of this Petition should not come in the way of the Petitioner if he decides to file the Election Petition. We are afraid that the said submission cannot be accepted. We have, after going through the record, made the aforesaid observations and, therefore, it will not be possible to observe that the aforesaid observations are of a prima facie nature.

7. Petition is accordingly disposed of.

(A.R. JOSHI, J.)

(V.M. KANADE, J.)