

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.3333 OF 2015

Sangani Narendra Madhusudan

.. Petitioner

v/s.

The President – The Institute of
Chartered Accountants of India & Ors.

.. Respondents

Mr. K.M. Sangani for the petitioner

Mr. Kapil Moye a/w Shreyas Patel and Gaurangi Pujara i/b Little &
Co. for the respondent nos. 1 to 4

Mr. Parag Vyas for the respondent no.5

CORAM : M.S. SANKLECHA &

M.S. SONAK, J.J.

DATED : 30th NOVEMBER, 2015.

PC.

1. The petitioner is contesting the election to the Governing Council of the Western Indian Regional Council of Institute of Chartered Accountants of India (herein after referred to as Institute) to be held on 4th and 5th December, 2015.

2. The Petitioner's grievance is that e-mail addresses and mobile numbers of eligible voters has not been furnished to him. Consequently, he is prejudiced in contesting the election to the

membership of the Governing Council of the Institute.

3. The petitioner had earlier filed the Writ Petition (L) No.3290 of 2015 which was posted for admission on 24th November, 2015. At that time, the respondents handed over the compilation containing the list of eligible voters for the election to be held on 4th and 5th December, 2015 and also agreed to hand over the C.D., containing the same information. On account of the the above, the petitioner withdrew his Writ Petition (L) No. 3290 of 2015 on 24th November, 2015.

4. The present petition has been filed on the basis that the compilation of list of voters as well as the C.D., which were handed over to the petitioner, does not indicate the e-mail addresses and mobile numbers of the list of eligible voters for the election to be held on 4th and 5th December, 2015. It is the case of the petitioner that the Institute is obliged to give him the e-mail addresses as well as the mobile numbers of the list of eligible voters so as to enable the petitioner to canvass amongst the voters. In support, reliance is placed upon Rule 6 of Chartered

Accountants (Election to the Council) Rules, 2006 (for short the 'said Rules') along with Schedule 2 to the said Rules which read as under :-

“6. List of voters – (1) At least three months before the date of election, the returning officer shall publish a list of members eligible to vote, as defined in rule 5, as per Schedule 2 of these Rules.

(2) Subject to the provisions of these rules, the address of a member published in the list of voters shall be final for determining the manner in which he shall be entitled to cast his vote, the constituency and the polling booth to which he shall belong for the purpose of casting his vote.

(3) The list of members eligible to vote shall be made available at the headquarters, relevant regional councils and their relevant branches on payment of such price as may be fixed by the council.

(4) The inclusion of the name of a member in the list of members eligible to vote shall not confer an absolute right to vote at the election which shall be subject to the other provisions of these rules, regulations or the Act.

(5) An announcement about the availability of the list, as per sub-rule (3), shall be put on the web-site of the institute, notice board of the council, the notice board of the regional council concerned, as well as the notice board(s) of the branches of regional council concerned, wherever these exist.

(6) If a clerical mistake or omission is detected in the list of members eligible to vote, the returning officer may rectify the same at any time by issue of a suitable corrigendum.”

(emphasis supplied)

Schedule 2

(1) The list of voters shall be prepared separately for

each regional constituency.

(2) The list so prepared under clause (1) above shall show distinctly and separately:-

(i) (ii)

(iii) in the case of votes residing outside India, in addition to their address India under clause (ii), their respective addresses outside India furnished to the Institute by the voters concerned;

(iv) details of internet address or e-mail address as furnished by a voter to the Institute, provided an express consent is given by the voter for its inclusion in the list of voters;

(v) and (vi)

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(emphasis supplied)

5. The aforesaid Rule 6 of the said Rules only requires the Council to make available the list of eligible voters to the candidates contesting the election at their headquarters on payment of requisite fees. Schedule 2 of the said Rules in terms provides the details of e-mail address as furnished by the voters to the Institute would be a part of the list of voters where express consent has been given by the voters for its inclusion in the list of voters.

6. In these circumstances, the petitioner has not been able to show any obligation on the part of the Institute to furnish to the

petitioner the list of e-mail addresses as well as mobile numbers of the list of the eligible voters in terms of the said Rules, 2006 to the persons contesting elections to the Institute.

7. So far the Petitioner's grievance that other candidates for the election to the Institute have been furnished e-mail addresses and mobile numbers of the voters is concerned, the same is denied by the learned Counsel for the Institute. In fact the learned Counsel for the Institute, on instructions from Mrs. Gupta, Joint Secretary of the respondent Institute who is present in Court states that all candidates contesting the election have been made available an identical compilation and C.D. as was made available to the Petitioner on payment of requisite fees.

8. In view of the above, we find no merit in the petition. Accordingly, the same is dismissed. No order as to costs.

(M.S. SONAK, J.)

(M.S. SANKLECHA, J.)