

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3308 OF 2015

Rajesaheb Shrikrushnarao Deshmukh
and another

...PETITIONERS

versus

State of Maharashtra and others

...RESPONDENTS

.....
Mr. N.B. Khandare, Advocate for petitioners
Mr. S.M. Ganachari, AGP for respondent No. 1
Smt. Anjali Dube (Bajpai) Advocate for respondent No. 2
.....

**CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.**

DATED : 2nd AUGUST, 2016.

Order :-

1. The petitioners were nominated as members of Board of Directors of respondent No. 2 – Maharashtra State Seed Corporation Ltd. (for short "Corporation) vide notifications dated 27th August, 2014 and 5th September, 2014. Said nominations are cancelled vide Government Resolution dated 08-01-2015. The same is assailed in present writ petition.

2. Mr. Khandare, learned counsel for petitioners submits that petitioners were nominated as members of Board of Directors of respondent No. 2 - Corporation for a period of three years vide Government orders dated 27th August, 2014 and 5th September, 2014. There is no provision in the statute entitling the Government to cancel said nominations prior to period of three years. Learned counsel further submits that while cancelling nominations, the State Government has

not given any reason and thus the order without reason is not sustainable.

3. Learned counsel submits that reasons are tried to be supplemented by affidavit and the same is not permissible even as per the judgment of the Apex Court in the case of *Mohinder Singh Gill and another Vs. The Chief Election Commissioner New Delhi and others* reported in *AIR 1978 SC, 852*.

4. Learned counsel further submits that the Government has not even filed affidavit clarifying its stand. According to learned counsel, affidavit is filed by respondent No. 2 - Corporation stating that nominations were not in accordance with rule 125(b) of Articles of Association but has not stated how same is not in consonance with rule 125(b) of Articles of Association. Learned counsel submits that cancellation of nominations being illegal, deserves to be quashed and set aside.

5. Smt. Dube learned counsel for respondent No. 2 - Corporation submits that nominations of the petitioners as members of the Board of Directors had not come into existence at all. The same would have come into existence only if nominations of the petitioners would have placed before the General Body Meeting of the Corporation and the same having been passed by the Corporation. Said stage had not yet arrived. As nominations were not in accordance with rule 125(b) of Article of Association, the same was rightly cancelled. The Government of Maharashtra had a right to nominate seven Directors to the Board of

Directors. National Seeds Corporation has right to nominate five members on the Board of Directors. The Government had earlier nominated three members. As such, the Government could have nominated only four members on Board of Directors but had nominated 13 members which would be beyond the power of the State Government. As such, the fact was communicated by respondent No. 2 - Corporation to the State Government that appointment of Directors was not in consonance with proportionate share holding. Pursuant to which, order is passed by the Government cancelling nominations and same is legal and proper.

6. We have also heard learned Assistant Government Pleader.

7. We have heard the submissions canvassed by learned counsel for respective parties. It is a fact that the petitioners were nominated as members of the Board of Directors of respondent No. 2-Corporation for a period of three years. Said period was to commence after the said list of nominated Directors is placed in the General Body Meeting of respondent No. 2 - Corporation. As such, it can be stated that rights claimed by the petitioners pursuant to the nominations were inchoate.

8. The contention of Mr. Khandare learned counsel for petitioners that, order cancelling their directorship is without any reason, is correct. The order cancelling nominations does not spell out any reason. Any administrative action needs to be supported by reasons. Reasons depict application of mind of the authority passing the order. Reasons now are considered third pillar of rules of natural justice.

9. The appointment of petitioners itself was not in consonance with rule 125(b) of the Article of Association. Setting aside the said order on the ground of lack of reasons and again remitting the matter back would serve no purpose. The Government of Maharashtra has share holding of 49%, National Seeds Corporation has share holding of 35.44% and Agricultural Universities is having share holding of 2.86%, farmers share holding is 12.5%. The Government of Maharashtra as per its share holding can nominate seven members to the Board of Directors, vide notification 13 Directors are nominated by the Government on present Board of Directors, which is not permissible as per proportionate share holding contemplated in the rules of Association.

10. Considering the aforesaid conspectus of the matter, rights of the petitioners were inchoate, so also nominations of the petitioners by the Government is beyond its power. The order of cancelling nominations of the petitioners needs no interference.

11. In view of the above, writ petition stands disposed of. No costs.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

MTK