

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

WRIT PETITION NO. 4681 OF 2016

Sangita Bhausahab Chindhe
Age _____, years, occup. Agril.,
R/o Devli, Tq. Gangapur,
District Aurangabad .. Petitioner

versus

01. The State of Maharashtra,
through Co-operation Department,
Mantralaya, Mumbai - 32
02. The Assistant Registrar,
Co-operative Societies,
Gangapur, Dist. Aurangabad
03. The Returning Officer, [Election
Officer] Shiregaon Vividh Karkyakari
Seva Sahakari Sanstha Maryadit,
Shiregaon, Tq. Gangapur,
Dist. Aurangabad
04. Priya Dinesh Mutha,
Age major, occup. Household,
R/o Lasur Station, Tq. Gangapur,
Dist. Aurangabad
05. Shiregaon Vividh Karkyakari Seva
Sanstha Maryadit, Shiregaon,
Tq. Gangapur, Dist. Aurangabad .. Respondents

Mr. Abhishek M. Hajare, Advocate for petitioner
Mr. S. K. Tambe, Assistant Government Pleader for respondents
no. 1 to 3
Mr. K. J. Suryawanshi, Advocate for respondent no. 4

CORAM : SUNIL P. DESHMUKH, J.

DATE : 4th May, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard the parties finally, by consent.

2. Petitioner is before this court, aggrieved by decision of the returning officer dated 13-04-2016 overruling her objection to nomination of respondent no. 4 contending that it cannot be said that respondent no. 4 qualifies to be a member, much less a voter for election of the managing committee since she does not possess minimum land holding in the area of operation of society.

3. Learned counsel for petitioner, for aforesaid purpose, places reliance on a certificate issued on 13-04-2016 by concerned *talathi*. He further refers to that before objection to the nomination of respondent no. 4, petitioner had moved objection to her membership, however, said movement has not been responded to.

4. Learned counsel for respondent no. 4 contends that the objection has been properly overruled. According to him, respondent no. 4 has been continuously without interruption member of society since 2011. He submits, certificate of talathi relied on by petitioner has been obtained at the threshold of the election at such a stage which shall not be able to obfuscate

nomination of respondent no. 4. No opportunity has been afforded to respondent no. 4 in respect of allegations upon which the objection has been taken to her nomination. He further submits that the objection has been rightly overruled having regard to the reasons which are appearing in the order impugned.

5. Learned Assistant Government Pleader appearing on behalf of respondents no. 1 to 3 contends that the elections have reached a very advanced stage and the polling is scheduled on 07-05-2016. He further submits that in any case objection to the nomination of respondent no. 4 on the ground that she cannot be a member could not have been entertained by the returning officer in an enquiry which is of summary nature. He submits that having regard to the record which has been referred to and considered as has been stated by the responsible officer of the society, the order impugned has been passed. Learned Assistant Government Pleader further submits that it is not the case that respondent no. 4 has been removed from membership after due procedure being followed and as such no fault can be found with impugned order.

6. Having regard to aforesaid, this does not appear to be a case that there is an order which is unreasoned or, for that matter, there is any error in the same. The order appears to have been with reference to the record as had been obtaining on the date for filing nomination. The certificate alone issued by the *talathi*, during the

course of election, is without giving any opportunity to question its authenticity at the instance of respondent no.4, by itself would not be sufficient to consider that respondent no. 4 at this juncture cannot be said to be a member.

7. Having regard to aforesaid, I am not inclined to interfere with impugned order.

8. Writ petition stands dismissed. Rule stands discharged.

9. However, it would be open for the petitioner to take up objection to the nomination of respondent no. 4 in the proceedings as may be legitimately available to her in law, including an election petition.

SUNIL P. DESHMUKH,
JUDGE

pnd