

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

WRIT PETITION NO. 6317 OF 2016

Martand @ Maroti s/o Murlidhar Lipane ... Petitioner

Versus

The State of Maharashtra and others ... Respondents

.....
Mr. Yuvraj V. Kakade, Advocate for petitioner

Mr. A. P. Basarkar, Assistant Government Pleader for
respondents No.1

.....

CORAM : SUNIL P. DESHMUKH, J.

DATE : 17th JUNE, 2016

ORDER :

1. Heard learned counsel for the petitioner. He vehemently argues that in spite of the fact that respondent No.5 has been convicted for the offences punishable under section 143 read with 149 and under section 353 read with 149 of the Indian Penal Code and has been sentenced to suffer imprisonment for a period of six months and one year on respective counts, nomination paper of respondent No.5 does not disclose any such thing. He, under the circumstances, contends that

having regard to the conviction of respondent No.5, he stands disqualified under clause 1(ix) of section 73CA of the Maharashtra Cooperative Societies Act, 1960.

2. It appears that respondent No.5 has been before the High Court under a criminal appeal, wherein his conviction along with sentence has been suspended. The appeal is under consideration by the High Court. The affidavit according to learned counsel is silent about respondent No. 5's conviction and as such there is non-disclosure of material information. Perusal of the format, in which the affidavit along with nomination is filed, shows it does not give allowance to such an explanation in the format. Whether non-appearance of aforesaid conviction and sentence and its suspension under these circumstances amounts to non disclosure, at least at this stage it appears to be an arguable case. In the circumstances, issuance of notice to respondents would not fructify the purpose underlying the writ petition by the time the notice to the respondents comes back.

3. In view of the same, I am not inclined to entertain the writ petition.

4. Writ petition, as such, stands rejected.
5. It is, however, open for the petitioner to take up such proceedings including an election petition, questioning the validity of nomination and/or election of respondent No.5.

(SUNIL P. DESHMUKH, J.)

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