

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7750 OF 2016

Sanjay Pandharinath Marathe	...	Petitioner
Vs.		
The State of Maharashtra & Ors.	...	Respondents

Mr. S.D. Kotkar, Advocate for the petitioner.		
Mr. S.K. Tambe, AGP for respondent-state.		

CORAM : SUNIL P. DESHMUKH, J.
DATE : 19-07-2016.

Per Court :

1. Heard learned counsel for the petitioner, placing emphasis on rule 38 as contained in Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 submits that when the petitioner is qualified under said rule, his rejection to let him contest the elections to the post reserved for co-operative societies constituency is incorrect.

2. He submits that it cannot be denied that he is an agriculturist and that he is also a member of Dhadne Vividh Karyakari Society. Having regard to rule 38 and being a member of the society, he stands qualified to contest the elections. He submits that the two authorities have committed grave error in rejecting and maintaining rejection of his nomination to contest the elections

to Agricultural Produce Market Committee, Sakri. He submits that, he possessed basic requirements as an agriculturist and as member of the society and as such under rule 38 (1), he is qualified to contest the elections. He purports to distinguish rule 38(1) with the other sub-rules under rule 38 which according to him particularly refer to that names of persons in those categories shall appear in the list of voters, however, such a requirement is not there as far as rule 38(1) is concerned. He therefore submits that rejection of his nomination is un-sustainable and his nomination should be allowed.

3. Learned Assistant Government Pleader, Mr. Tambe appearing for respondents no. 1 to 3 points out various rules which are relevant for the purpose of elections. He, inter alia, refers to rule 36, 37 and 39. He submits that the petitioner is not in a position to dispute that petitioner's name does not appear in the voters list in any of the constituencies for elections to Agricultural Produce Market Committee prepared pursuant to relevant rule 36. He further refers to that rule 37 ordains that voters list would be conclusive for the purpose of determining whether any person is qualified to vote or as the case may be or is not qualified to be elected at an election.

4. He submits that rule 38 will have to be read in the background of the other rules and could not isolatedly applied. He

further submits when a persons name is not in voters list, it would not be appropriate to consider that still he would be able to contest the elections. Learned Assistant Government Pleader submits full bench judgment in the case of *Rajkumar Laxmanprasad Kesarwani V/s. Returning Officer and others* reported in 2006 (2) Bom. C.R. 32, would not assist the petitioner at all which holds the field that unless a person is on voters' list, he would not be able to contest.

5. Learned counsel for the petitioner at this juncture fairly concedes that the full bench judgment may not support his case. In the circumstances, writ petition is rendered without any substance and is rejected as such.

(SUNIL P. DESHMUKH)
JUDGE