

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8691 OF 2016

Umashankar Shivappa Patil ... Petitioner
Vs.
The State of Maharashtra and Ors. ... Respondents

Mr. Vijay B. Patil, Advocate for the petitioner.
Mr. S.N. Kendre, AGP for respondent-state.
Mr. S.K. Kadam, Advocate for respondent no.2.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 11-08-2016.

Per Court :

1. Heard learned counsel for the petitioner and learned counsel for respondent no.2.

2. Learned counsel for the petitioner states that, respondent no.6 would not be eligible to contest elections to Managing Committee of Siddheshwar Sahakari Bank Limited, Latur since it can not be said that he is an active member having a bank deposit of Rs. 20,000/- for a period of two continuous years.

3. Learned counsel contends that, amount deposited for securing a bank guarantee would not be amenable to be considered to be a deposit as contemplated under bye-law no. 40 of the bank. He submits that, respondent no.6 had been required to give a bank

guarantee for withdrawal of amount of land acquisition compensation and was the condition for withdrawal. For said purpose such a deposit had been made by respondent no.6. It would not be a deposit as referred to under bye law no. 40.

4. While such objection appears to have been taken, their appears from the certificate issued by the bank itself stating that, respondent no.6 is a depositor of Rs. 6 lacs for preceding two financial years.

5. In the wake of aforesaid, the returning officer has rejected the objection taken by petitioner to the nomination of respondent no.6. Though, learned counsel for petitioner has submitted as aforesaid. Learned counsel Mr. Kadam contends that, the returning officer has considered that the bank has certified respondent no.6, to be a depositor for preceding two financial years of an amount more than the minimum required amount under bye law no.40. The returning officer is not supposed to go beyond aforesaid, since it would be a summary inquiry as is contemplated at the stage of scrutinising his nomination. The submissions on behalf of the petitioner in the circumstances, would not be in the purview of powers of the returning officer. No fault can be found with.

6. He further submits that, once the bank had certified that, respondent no.6 holds the requisite deposit and has not specified anything in the certificate about the category of deposit, it is difficult for the returning officer to hold respondent no.6 ineligible. The inquiry contemplated is summary in nature, as such, no fault can be found with the order passed. There appears to be considerable force in the submissions of learned counsel for the returning officer, as on the date, there is a certificate which is not disputed, the reasons all otherwise for making deposit would not matter at this stage of the elections. The impugned orders cannot be faulted with. Writ petition is rejected, leaving it open for the petitioner to take up appropriate measures if he thinks that he is aggrieved by an order validating the nomination of respondent no.6, including an election petition.

(SUNIL P. DESHMUKH)
JUDGE