

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 9731 OF 2016

Subhash S/o Kishan Gaikwad,
Age 30 years, Occ. Agril,
R/o Somthana, Tq. Badnapur,
District Jalna.

... PETITIONER

VERSUS

- 1) The State of Maharashtra,
Through Secretary,
Co-operative and Textile Department
Maharashtra State Mantralaya, Mumbai.
(Copy to be served on Government
Pleader High court of Bombay
Bench at Aurangabad)
- 2) The Assistant Registrar Co-operative Society
Tq. Badnapur, Dist. Jalna.
- 3) Returning Officer,
Somthana Vlvdh Karyakari Seva Sahakari
Sanstha Ltd. Somthana. Tq. Badnapur, Dist. Jalna.
- 4) Somthana Vlvdh Karyakari Seva Sahakari
Sanstha Ltd. Somthana,
Through Secretary.
- 5) Sherkar Sahebrao Kishanrao
Age: Major, Occ: Agri,
R/o Khadakvadi
Tq. Badnapur, Dist. Jalna.

... RESPONDENTS

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Mr. G. R. Nagargoje, Advocate for the Petitioner.

Mr. A. P. Basarkar, AGP for Respondent Nos.1 and 2.

Mr. S. K. Kadam, Advocate for Respondent No.3

Mr. P. A. Bhosle, Advocate for Respondent No.5.

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CORAM : **T. V. NALAWADE, J.**

DATE : 24th October, 2016.

JUDGMENT:

. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2 The proceedings is filed to challenge the order made by the learned Assistant Registrar Co-operative Society by which the appeal filed by the Respondent Sherkar is allowed and direction is given to the Returning Officer to accept his nomination. The nomination of the Respondent was rejected by the Returning Officer as there was no copy of caste certificate alongwith nomination. Respondent Sherkar wants to contest the election as a candidate from reserved category.

3 In the election to Respondent Somthana Vividh Karyakari

Sevak Sahakari Sanstha Limited, Badnapur, District Jalna, the nomination forms were to be filed from 30th August, 2016 to 3rd September, 2016. On 6th September, 2016, scrutiny was to be done and on 7th September, 2016, the list of candidates who were eligible to contest the election, was to be published. The present Petitioner took objection to the nomination form of Respondent by contending that the caste certificate produced alongwith nomination form was not of the candidate, Respondent. Xerox copy of caste certificate showing that it was of Sherkar Sahebrao was produced with nomination form. It was contended that it was not the xerox copy issued to Sherkar Sahebrao, but it was a copy of caste certificate issued to Sherkar Rajendra Sahebrao, son of the Respondent. In view of the objection, a direction was given by the Returning Officer to the Respondent to produce the original caste certificate. The Respondent could not produce the original caste certificate and so his nomination form was rejected.

4 In the appeal, the Respondent contended that he was ready to produce the original caste certificate and then he produced the caste certificate issued to him on 9th September, 2016. This is

different caste certificate and it is not the original caste certificate of which xerox copy was produced alongwith nomination form. The last date for filing the nomination was 3rd September, 2016 and the caste certificate was obtained on 9th September, 2016. This circumstance is ignored by the learned Assistant Registrar and the appeal is allowed. The leaned counsel for the Respondent took this Court though the relevant provisions including Rules 20 and 21. He took this Court through Form E-5. The provisions of section 73-B of the Maharashtra Co-operative Societies Act show that at the time of filing of nomination papers, the candidate must produce xerox copy of the caste certificate and he needs to file declaration also. Form E-5 shows that in the declaration itself, it is mentioned that alongwith nomination form the candidate is producing the copy of caste certificate. The learned counsel for Respondent Sherkar submitted that only declaration was sufficient. This proposition is not acceptable in view of the aforesaid provisions and the form.

5 Thus, on the date of filing of nomination, the Respondent was not having caste certificate and he had attempted to use copy of caste certificate issued to his son. In view of this circumstance, this

Court holds that the Returning Officer had not committed any error in rejecting the nomination. As the learned Assistant Registrar has committed an error in setting aside the order of the Returning Officer, this Court holds that interference is necessary in the order made by the learned Assistant Registrar. In the result, the petition is allowed. The order made by the learned Assistant Registrar, Co-operative Societies, Badnapur in Appeal No.461 of 2016 is hereby set aside. The order made by the Returning Officer is restored.

[T. V. NALAWADE, J.]

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