

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

983 WRIT PETITION NO. 9833 OF 2016

SHANKARRAO RAJESHWARRAO DESHMUKH AND  
OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS  
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Shri. Shahaji B. Ghatol-Patil, Advocate, for petitioners.  
Shri. S.K. Tambe, Assistant Government Pleader, for  
respondent Nos.1 to 5.  
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**CORAM: T.V. NALAWADE, J.**

**DATE : 30 SEPTEMBER 2016**

**ORDER:**

1) The petition is filed by three candidates whose names are appearing on the list of candidates for elections which are to take place to the managing committee of respondent No.6. Heard both the sides.

2) It is the grievance of petitioner No.1 Shankar that he had submitted withdrawal application well in time, before 3.00 p.m. on the date fixed for withdrawal but his name is shown. It is the case of petitioner No. Balaji that he also had given withdrawal application before 3.00 p.m. but he is shown in the list of candidates. It is the case of petitioner No.3 Gangadhar that he had tendered

withdrawal notice but it was not accepted and so his name needs to be deleted from the list of candidates.

3) Learned counsel for the petitioners took this Court through various rules and particularly Rules 52 and 41-A of the Maharashtra Agricultural Produce Marketing (Regulation) Rules, 1967. He submitted that it was the job of the returning officer only to display the list of persons who had submitted withdrawal applications before the prescribed period and there is no authority to the returning officer to make further scrutiny in respect of those forms. On the other hand, learned Assistant Government Pleader for respondents, on the basis of affidavit filed submitted that mischief was played by the persons to whom the work of acceptance of withdrawal notice was given and by joining hands with one group they created record like withdrawal notice given by petitioner Nos.1 and 2. Learned AGP took this Court through copy of list prepared and showed to this Court that there was no serial number given to the withdrawal notice, application given by Shankar as his name was subsequently shown between Sr. Nos.36 and 37. With regard to petitioner No.2

Balaji, learned AGP submitted that the returning officer got satisfied himself that withdrawal application was subsequent to 3.00 p.m. but wrong time like 2.57 p.m. was mentioned and so the returning officer has taken a decision that withdrawal applications were not received before the time fixed and so their names are entered in the list of candidates. In respect of remaining person learned AGP submitted that there is no record at all with the returning officer and even with the two secretaries of the Cooperative Societies, who were appointed to assist.

4) The aforesaid dispute raised by the petitioners is a question of fact. Provision of rule 52 shows that it is subjective satisfaction of the returning officer and as he got satisfied about the withdrawal, he has taken decision that there was no withdrawal of the nominations of the present petitioners. Tomorrow is the date of publishing list of candidates along with symbols. In view of this, this Court holds that it is not possible to interfere in the process at this stage. In the result, the petition stands dismissed.

rs1

Sd/-  
**(T.V. NALAWADE, J. )**