

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

910 WRIT PETITION NO. 10735 OF 2016
WITH WP/10818/2016

ABHAY PANDURANG PATIL
VERSUS
THE DISTRICT DEPUTY REGISTRAR CO OPERATIVE
SOCIETIES AHMEDNAGAR AND OTHERS

Shri. Vivek V. Tarde, Advocate, for petitioners.

Shri. A.P. Basarkar, Assistant Government Pleader, for
respondent No.1 in both petitions.

Shri. S.K. Kadam, Advocate, for respondent No.2 in both
petitions.

Shri. A.B. Kale, Advocate, for respondent No.6 in Writ
Petition No.10735 of 2016.

Shri. K.J. Suryawanshi, Advocate, for respondent No.3 in
Writ Petition No.10818 of 2016.

CORAM: T.V. NALAWADE, J.

DATE : 27 OCTOBER 2016

ORDER:

1) Both the petitions are filed to challenge the
order made by the Returning Officer by which the
nominations are accepted. Heard both the sides.

2) The petitioner has challenged the acceptance of
nomination on the ground that the respondent society was
not having 25 share in the Ahmednagar Zilla Krishi

Audhyogik Sarva Seva Sahakari Sanstha Maryadit on the relevant date like 31-3-2016 and so the nomination ought to have been rejected. Learned counsel for the petitioners took this Court through the instructions issued by the Returning Officer and Instruction No.7 which is to the aforesaid effect. Learned counsel for the petitioners submitted that it is not disputed that in the year 2001 itself bye-laws of the society were amended. Admittedly prior to the year 2001 as per the bye-laws even for contesting election it was necessary for the society to secure one share of 100/- rupees denomination. Thus, only after 2001 there was requirement of holding 25 shares of Rs.100/- denomination each and only after that it was possible to contest the election.

3) The submissions made show that in all the previous elections which took place after 2001, the societies which are members of respondent No.3 society were allowed to vote and contest from their constituency. The submissions made show that in Writ Petition No.10735/ 2016 there are 49 societies which are members of this constituency and only 4 societies have paid the expected capital i.e. price of 25 shares. Similarly, in Writ

Petition No.10818/2016 out of 60 members only 3 member-societies have paid the share capital of the price of 25 shares. There is no explanation as to how those societies were allowed to contest the election from this constituency prior to 2016. Learned counsel for the petitioners drew attention of this Court to the Roznama prepared by the Returning Officer in which it is mentioned that the Secretary of the District Level society had informed that in the year 2003 by sending simple letter the amendment made by the District Level Society was informed to the member societies. It can be said that there is no record with the District Level Society, respondent No.3, to the effect that such intimation was really given and after that the member societies was asked to pay the remaining share capital i.e. price of remaining 24 shares. Unless and until that is done, the member society cannot be prevented from contesting the election also. This Court holds that the Returning Officer has not committed any error in accepting the nomination. In the result, both the petitions stand dismissed.

rsl

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