

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

904 WRIT PETITION NO. 11832 OF 2016

NEW SHANTINIKETAN CO OPERATIVE HOUSING SOCIETY LTD
THROUGH ITS CHAIRMAN K B RATHO
VERSUS

THE STATE CO OPERATIVE ELECTION AUTHORITY
MAHARASHTRASTATE PUNE AND OTHERS

...
Advocate for Petitioner : Suryawanshi Kamlakar J.
Advocate for Respondents 1 to 3 : S.K. Kadam
Advocate for Respondent 4 : R.T. Nagargoje
...

CORAM : T.V. NALAWADE, J.

DATED : 15th December, 2016.

ORDER :

1. The petition is filed to challenge the decision of the Returning Officer by which the name of respondent No. 4 is included in final voters list. Both the sides are heard.

2. It appears that respondent No. 4 paid the amounts like application fees and share fees on 21.8.2016 and 4.10.2016. In the past, her grand-father was member of this society and she has stepped in the shoes of her grandfather. Her name was not shown in the provisional voters list. Application was filed by this lady for inclusion of her name in voters list.

3. The learned counsel for petitioner raised many

grounds. He submitted that the date was fixed as cut-off date for preparation of the provisional voters list and it was 31.7.2016. He submitted that after that date, the name of respondent No. 4 could not have been included in the voters list. This submission is not at all acceptable as the Returning Officer is expected to call objections and entertain claims with regard to the right to vote. The learned counsel for the petitioner submitted that the date 19.11.2016 was fixed for giving decision on objections and claims and so it was not proper to include the name on 21.11.2016. This contention is also not having any force. From the record, the lady had filed objections on 15.11.2016 within time. It was up to the Returning Officer to take decision on that. It appears that unfortunately, the decision was not recorded by passing reasoned order, but in final voters list the name of respondent No. 4 was included and it was published on 21.11.2016. It appears that reasoned order was made subsequent to that inclusion i.e. on 24.11.2016. This Court holds that due to this mistake committed by the Returning Officer, member cannot be made to suffer.

4. The submissions made show that as the name of respondent No. 4 was included in final voters list. She filed nomination to contest election for the post of Director and she is

contesting the election. In view of this circumstance, this Court holds that at this stage, it is not possible to interfere in the matter. Petition is dismissed. All points are kept open for dispute.

[T.V. NALAWADE, J.]

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