

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13717 OF 2016

Mansingh Balasaheb Gawde : Petitioner
versus
State of Maharashtra and ors. : Respondents.

**WITH
WRIT PETITION NO.13718 OF 2016**

Manik Mhalu Gawde : Petitioner
versus
State of Maharashtra and ors. : Respondents.

**WITH
WRIT PETITION NO.13719 OF 2016**

Sandeep Kaluram Gawde : Petitioner
versus
State of Maharashtra and ors. : Respondents.

**WITH
WRIT PETITION NO.13720 OF 2016**

Smt. Lilabai Bholu Gawde : Petitioner
versus
State of Maharashtra and ors. : Respondents.

**WITH
WRIT PETITION NO.13721 OF 2016**

Namdeo Gynaoba Gawde : Petitioner
versus
State of Maharashtra and ors. : Respondents.

**WITH
WRIT PETITION NO.13722 OF 2016**

Dipak Valmik Gawde : Petitioner
versus
State of Maharashtra and ors. : Respondents.

**WITH
WRIT PETITION NO.13723 OF 2016**

Lakshman Rambhau Gawde : **Petitioner**
versus
State of Maharashtra and ors. : **Respondents.**

Mr. Nitin Gangal for the Petitioners in all the above Writ Petitions.
Mr. S D Rayrikar, AGP for the Respondent Nos.1 and 2.
Mr. S S Kanetkar for the Respondent No.27 in all the Writ Petitions.

CORAM : R. M. SAVANT, J.
DATE : 15th December 2016

P.C.

1 The writ jurisdiction of this Court in all the above Writ Petitions is invoked against the orders all dated 3/12/2016 passed by the Deputy Registrar of Co-operative Societies, Pune City (4), Pune by which orders the Appeals filed by the Petitioners above-named came to be dismissed and resultantly the orders dated 22/11/2016 passed by the Returning Officer rejecting the nominations of the Petitioners on the grounds mentioned in the said order came to be confirmed.

2 The Petitioners claimed to be the members of the Respondent No.4 Co-operative Society which is a Vividh Karyakari Society (Multi Purpose Society) which provides various facilities to the agriculturists. The election program to the said Society for the period 2016-2017 to 2021-2022 was announced vide Notice dated 04/11/2016. In terms of the said election program the scrutiny of the nominations was to take place on 22/11/2016 and

the final list of contesting candidates was to be published on 08/12/2016 and the voting if required was to take place on 18/12/2016. The Petitioners filed their nominations to contest the elections from the respective constituencies mentioned in the nominations.

3 The nominations filed by the Petitioners were objected inter alia on the ground that in terms of the Election Rules it was incumbent upon the contesting candidates to purchase nomination form themselves, but in the instant case was not done so by 6 Petitioners except Petitioner in Writ Petition No.13718 of 2016 Shri Manik Mhalu Gawde. In so far as the said Petitioner Shri Manik Mhalu Gawde is concerned, his nomination was objected to on the ground that he is a defaulter on the cut-off date.

4 The said objections raised against the Petitioners were sustained by the Returning Officer who by his order dated 22/11/2016 rejected the nominations of the 6 Petitioners except Shri Manik Mhalu Gawde on the ground that they have fallen foul of the Rules on account of the fact that they themselves have not purchased the nomination forms. In so far as Shri Manik Mhalu Gawde is concerned, his nomination was rejected on the ground that he was a defaulter on the cut-off date.

5 The Petitioners aggrieved by the said order dated 22/11/2016

passed by the Returning Officer challenged the same by way of Appeals under Section 152 of the Maharashtra Co-operative Societies Act before the Deputy Registrar of Co-operative Societies. The said Appeals as indicated above have been rejected by the impugned order dated 03/12/2016. The grounds for rejection by the Returning Officer were reiterated by the Appellate Authority i.e. the Deputy Registrar of Co-operative Societies. The Appellate Authority held that the Petitioners have fallen foul of Rule 23 of the said Rules as they have not complied with the same in the matter of purchasing the nomination forms themselves. The Appellate Authority has also held that the Appeals are required to be rejected also on the ground that the Petitioners have not joined the contesting candidates as parties to their respective Appeals. As indicated above, it is the said order dated 03/12/2016 which is taken exception to by way of the above Writ Petition.

6 The learned counsel appearing on behalf of the Petitioners would seek to reiterate the case of the Petitioners that was urged before the Appellate Authority and would contend that on an interpretation of Rule 23 of the said Rules it cannot be said that unless the forms are purchased by the candidates themselves they are liable to be rejected. The learned counsel in so far as the Petitioner Shri Manik Mhalu Gawde is concerned would contend that the said Petitioner has also produced evidence in support of his case that he has no outstanding towards the Respondent No.4 Society.

7 In my view, it is no possible to accept the contentions urged on behalf of the Petitioners. It is required to be noted that in terms of the election program a final list of candidates was to be published on 08/12/2016. It seems that on 08/12/2016 itself the list of the elected candidates was put up, in view of the fact that there was no contest in the said constituencies. This Court was informed that virtually in all the constituencies, the candidate remaining has been elected unopposed, meaning thereby that no voting is to take place on 18/12/2016. Having regard to the said fact it is not possible to interfere with the elections in the writ jurisdiction of this Court. The above Writ Petitions are accordingly dismissed. However, it would be open for each of the Petitioners to adopt such remedies as are available in law to question the election from the respective constituencies from which they desired to contest. If any such proceedings are filed, needless to state that the same would be tried on their own merits and in accordance with law.

[R.M.SAVANT, J]