

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1859 OF 2016

(Anil Sahebrao Patil Vs. The Returning Officer, Shetkari Sahakari Sutgirmi Ltd. & others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Abhay Sambre, Advocate for the petitioner.
Shri F. T. Mirza, Advocate for the caveator.

CORAM : S. B. SHUKRE, J.
DATED : 23 MARCH, 2016

Heard.

By this petition, the petitioner has challenged the legality and correctness of the order dated 01/3/2016 thereby rejecting the objection taken to the filing of nomination by respondent No.3. The objection was to the effect that respondent no.3 was not eligible to contest the election from the category of 'cotton grower agriculturist' as he was not a cotton grower.

The objection has been rejected, according to the petitioner, without making any enquiry as contemplated under Rule 25 of the Maharashtra Co-operative Societies Election to the Committees Rule, 2014. It is also seen from the impugned order that respondent No.1 did not make any summary enquiry as required under the rule and went on to reject the objection only on the ground that the petitioner did not take objection to the provisional voters list. The

reason stated in the impugned order for rejecting the objection may not be germane to the issue involved in the matter, but the fact remains that the election process has entered advanced stage and now the voting is to take place on 27/3/2016. At such a stage of process of the election, it would not be appropriate to make any interference in exercise of the extra ordinary jurisdiction of this Court, especially when statutory remedy for redressal of the grievance as raised by the petitioner is available under Section 91 of the Act, 2014.

Of course, there have been occasions, as submitted by learned Counsel for the petitioner, for this Court to interfere in such matters. Learned Counsel for the petitioner has referred to me some of such orders passed by this Court in Writ Petition Nos. 65, 66 and 69 of 2016. But, it appears from the facts of those writ petitions that the process of election in these petitions had not reached to a stage as the present election process has. Even otherwise, it is well settled law that the term 'election' appearing in Article 324 of the Constitution envelopes the election process and any objection taken in respect of any stage of the election process could be taken up by way of an election petition filed under the appropriate provisions of law. The

law in this regard has been settled as far as back in the year 1952 by the Hon'ble Apex Court in the case of N. P. Ponnuswami Vs. The Returning Officer, Namakhal Constituency – AIR 1952 SC 64(1) on which heavy reliance has been placed by the learned Counsel for respondent No.3-caveator. In the case of Shri Sant Sadguru Janardan Swami & another Vs. State of Maharashtra & others – (2001) 8 SC 509, the same law has been laid down.

In view of the above discussion, I am not inclined to entertain the petition and it deserves to be summarily dismissed. The petition stands dismissed. However, it shall be open for the petitioner to raise his grievance by filing the election petition under the relevant provisions of law. All contentions of the petitioners are kept open.

JUDGE