

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

WRIT PETITION NO. 1460 OF 2017

Radheshyam s/o Narasayya Shedmallu
Age:48 years, Occu: Service,
R/o. Sonal Nagar, Jalna
Tq. & Dist: Jalna

...PETITIONER

VERSUS

1. The State Co-operative Election Authority,
Maharashtra State, Pune,
2. The District Deputy Registrar,
Co-operative Society, Jalna,
3. The Returning Officer,
for the Election of the
Maharashtra State Electricity
Employees Co-op. Patsanstha Ltd.
Jalna. Tq. & Dist.: Jalna.
4. The Election of the Maharashtra
State Electricity Employees Co-op.
Pathsanstha Ltd. Jalna,
Through its Manager

(Copy of respondent No.1 to be served
on its Standing Counsel, Respondent No.2
to be served on Govt. Pleader, High Court
of Bombay, Bench at Aurangabad and
the copy of respondent No.3 to be served
on its Standing Counsel)

...RESPONDENTS

.....
Shri V.A. Bagal, Advocate for petitioner
Shri V.S. Kadam, Advocate for respondent Nos.1 and 3
Shri A.V. Deshmukh, A.G.P. for respondent No.2
Shri S.S. Paturkar, Advocate for respondent No.4
.....

WITH

WRIT PETITION NO. 1461 OF 2017

Babu s/o Narsing Rathod
Age:45 years, Occu: Service,
R/o. Shakuntalnagar, Jalna
Tq. & Dist: Jalna

...PETITIONER

VERSUS

1. The State Co-operative Election Authority,
Maharashtra State, Pune,
2. The District Deputy Registrar,
Co-operative Society, Jalna,
3. The Returning Officer,
for the Election of the
Maharashtra State Electricity
Employees Co-op. Patsanstha Ltd.
Jalna. Tq. & Dist.: Jalna.
4. The Election of the Maharashtra
State Electricity Employees Co-op.
Pathsanstha Ltd. Jalna,
Through its Manager

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the copy of respondent No.3 to be served
on its Standing Counsel)

...RESPONDENTS

.....
Shri V.A. Bagal, Advocate for petitioner
Shri V.S. Kadam, Advocate for respondent Nos.1 and 3
Shri A.V. Deshmukh, A.G.P. for respondent No.2
Shri S.S. Paturkar, Advocate for respondent No.4
.....

WITH

WRIT PETITION NO. 1462 OF 2017

Bhagwan s/o Asaram Kolhe
Age:31 years, Occu: Service,
R/o. Samarth Nagar, Jalna
Tq. & Dist: Jalna

...PETITIONER

VERSUS

1. The State Co-operative Election Authority,
Maharashtra State, Pune,
2. The District Deputy Registrar,
Co-operative Society, Jalna,
3. The Returning Officer,
for the Election of the
Maharashtra State Electricity
Employees Co-op. Patsanstha Ltd.
Jalna. Tq. & Dist.: Jalna.
4. The Election of the Maharashtra
State Electricity Employees Co-op.
Pathsanstha Ltd. Jalna,
Through its Manager

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the copy of respondent No.3 to be served
on its Standing Counsel)

...RESPONDENTS

.....
Shri V.A. Bagal, Advocate for petitioner
Shri V.S. Kadam, Advocate for respondent Nos.1 and 3
Shri A.V. Deshmukh, A.G.P. for respondent No.2
Shri S.S. Paturkar, Advocate for respondent No.4
.....

WITH

WRIT PETITION NO. 1464 OF 2017

Gaganna s/o Narayanrao Pannama
Age:45 years, Occu: Service,
R/o. Sonal Nagar, Jalna
Tq. & Dist: Jalna

...PETITIONER

VERSUS

1. The State Co-operative Election Authority,
Maharashtra State, Pune,
2. The District Deputy Registrar,
Co-operative Society, Jalna,
3. The Returning Officer,
for the Election of the
Maharashtra State Electricity
Employees Co-op. Patsanstha Ltd.
Jalna. Tq. & Dist.: Jalna.
4. The Election of the Maharashtra
State Electricity Employees Co-op.
Pathsanstha Ltd. Jalna,
Through its Manager

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to be served on Govt. Pleader, High Court
of Bombay, Bench at Aurangabad and
the copy of respondent No.3 to be served
on its Standing Counsel)

...RESPONDENTS

.....
Shri V.A. Bagal, Advocate for petitioner
Shri V.S. Kadam, Advocate for respondent Nos.1 and 3
Shri A.V. Deshmukh, A.G.P. for respondent No.2
Shri S.S. Paturkar, Advocate for respondent No.4
.....

WITH

WRIT PETITION NO. 1465 OF 2017

Rajendra s/o Lassiram Jadhav
Age:45 years, Occu: Service,
R/o. Watur, Tq. Partur,
District Jalna

...PETITIONER

VERSUS

1. The State Co-operative Election Authority,
Maharashtra State, Pune,
2. The District Deputy Registrar,
Co-operative Society, Jalna,
3. The Returning Officer,
for the Election of the
Maharashtra State Electricity
Employees Co-op. Patsanstha Ltd.
Jalna. Tq. & Dist.: Jalna.
4. The Election of the Maharashtra
State Electricity Employees Co-op.
Pathsanstha Ltd. Jalna,
Through its Manager

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of Bombay, Bench at Aurangabad and
the copy of respondent No.3 to be served
on its Standing Counsel)

...RESPONDENTS

.....
Shri V.A. Bagal, Advocate for petitioner
Shri V.S. Kadam, Advocate for respondent Nos.1 and 3
Shri A.V. Deshmukh, A.G.P. for respondent No.2
Shri S.S. Paturkar, Advocate for respondent No.4
.....

WITH

WRIT PETITION NO. 1466 OF 2017

Bhausahab s/o Babasaheb Dabhade
Age:35 years, Occu: Service,
R/o. Dhopatashwar, Tq. Badnapur
District Jalna

...PETITIONER

VERSUS

1. The State Co-operative Election Authority,
Maharashtra State, Pune,
2. The District Deputy Registrar,
Co-operative Society, Jalna,
3. The Returning Officer,
for the Election of the
Maharashtra State Electricity
Employees Co-op. Patsanstha Ltd.
Jalna. Tq. & Dist.: Jalna.
4. The Election of the Maharashtra
State Electricity Employees Co-op.
Pathsanstha Ltd. Jalna,
Through its Manager

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...RESPONDENTS

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Shri V.A. Bagal, Advocate for petitioner
Shri V.S. Kadam, Advocate for respondent Nos.1 and 3
Shri A.V. Deshmukh, A.G.P. for respondent No.2
Shri S.S. Paturkar, Advocate for respondent No.4
.....

WITH

WRIT PETITION NO. 1467 OF 2017

Jyoti W/o. Santaram Gaikwad
Age:35 years, Occu: Service,
R/o. Near Water Tank, Ambad Road,
Jalna, Tq. & Dist: Jalna

...PETITIONER

VERSUS

1. The State Co-operative Election Authority,
Maharashtra State, Pune,
2. The District Deputy Registrar,
Co-operative Society, Jalna,
3. The Returning Officer,
for the Election of the
Maharashtra State Electricity
Employees Co-op. Patsanstha Ltd.
Jalna. Tq. & Dist.: Jalna.
4. The Election of the Maharashtra
State Electricity Employees Co-op.
Pathsanstha Ltd. Jalna,
Through its Manager

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...RESPONDENTS

.....
Shri V.A. Bagal, Advocate for petitioner
Shri V.S. Kadam, Advocate for respondent Nos.1 and 3
Shri A.V. Deshmukh, A.G.P. for respondent No.2
Shri S.S. Paturkar, Advocate for respondent No.4
.....

CORAM: S. B. SHUKRE, J.

DATED: 1st February, 2017.

ORAL JUDGMENT :

1. Heard. Shri V.S. Kadam, learned counsel waives service for respondent No.1 and 3, Learned A.G.P. waives service for respondent No.2. Shri S.S. Paturkar, learned counsel appears for respondent No.4 by waiving service. He is permitted to file Vakalatnama and same is taken on record. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. Rejection of the nomination form of the petitioners on the ground that the petitioners incurred, on the date of submission of the nomination form, disqualification on account of being defaulters, contemplated under Section 73-CA(A-1), Explanation (1)(I), Explanation (d) of the Maharashtra Co-operative Societies Act, 1960.

3. The relevant clause, which, in the opinion of the Election Officer, was attracted in the instant case, is clause (d) to the explanation and it is reproduced as under :

"(d) in the case of non-agricultural credit societies, a member who defaults the payment of any instalment of the loan granted; "

4. It is clear from the above referred clause that a single

default in payment of any installment of the loan granted or taken, is sufficient for the candidate to incur disqualification. The synopsis of the petitions show that, default in payment of installments on one or two occasions is an admitted fact. Therefore, I do not see any illegality or perversity in the impugned order.

5. Learned counsel for the petitioners has placed before me Statements of Accounts, issued by the respondent No.4 Society, wherein the petitioners have been shown to be clean borrowers, not having defaulted even once. There are no averments in this regard in the petitions. Rather the petitions contain an admitted fact relating to commission of the defaults and, therefore, no reliance can be placed upon such statements.

6. Learned counsel for the petitioners has referred to me the judgment of the learned Single Judge of this Court in the matter of **Vinodchandra H. Doshi & anr. Vs. M/s Echjay Forgings Pvt. Ltd. & ors.**, reported in **2002(2) Mh.L.J. 898**, wherein a view was taken that, as no notice was issued by the Society to the Member, informing him that he was in default, the disqualification on the ground of default was not justified. I must say, with due respect, there is no provision of law which requires any such prior notice being given to the Member of the Society and, therefore, it is doubtful if, in the absence of any notice

having been given to the Member, the disqualification incurred on the ground of commission of default in payment of installment, in the teeth of clause (d) (supra), could be held to be not incurred. That apart, the admitted fact also clearly attracts the disqualification under the said clause (d). In this view of the matter, the Writ Petitions are liable to be dismissed and the same are dismissed with costs. Rule is discharged.

7. Authenticated copy permitted.

(S. B. SHUKRE)
JUDGE

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