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

WRIT PETITION NO.6633 OF 2016

Shri. Shankar s/o Shridhar Raut,
Age: 49 years, Occu: Nil,
R/o. 237, Kasar Lane at post Pathardi,
Tq. Pathardi, Dist. Ahmednagar

..PETITIONER

VERSUS

1. The Divisional Joint Registrar,
Co-operative Societies, Nashik Division,
Nashik

2. Assistant Registrar,
Co-operative Societies Pathardi,
Tq. Pathardi, Dist. Ahmednagar

3. Mr. Umesh s/o Baburao Morgaonkar,
Age: Major, Occu: Business,
R/o. Ganesh Peth at post Pathardi,
Tq. Pathardi, Dist. Ahmednagar

4. Manager,
Shri. Swami Samartha Nagri
Sahakari Patsanstha Ltd. Pathardi,
Tq. Pathardi, Dist. Ahmednagar

..RESPONDENTS

Mr K. J. Suryawanshi, Advocate for petitioner;
Mr A. P. Basarkar, A.G.P. for respondent Nos.1 & 2;
Mr A. V. Hon, Advocate for respondent No.4

CORAM : NITIN W. SAMBRE, J.

DATE : 20th September, 2017

ORAL ORDER:

Having heard respective Counsel, it is an admitted position on record, pursuant to the report of the Assistant Co-operative Officer, Pathardi, dated 15th July, 2014, that on the date of the election of

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respondent no.3 being Director of respondent no.4 co-operative society for the session 2010-15, on the date of nomination he was defaulter, as admittedly he had obtained loan in 2008 of which repayment was not made. Even if respondent no.3 has resigned after his election on 1st October, 2014, still the fact remains that the issue that is required to be decided and considered by the authorities is, whether on the date of nomination there was any default on the part of respondent no.3 in repaying the loan and whether such default will incur disqualification in favour of respondent no.3 from contesting for the post of Director of respondent no.4 society.

2. It appears that all the three authorities, who have passed impugned orders, have considered the position subsequent to the resignation of respondent no.3 i.e. after 1st October, 2014, till which date he continued to be Director of respondent no.4 society.

3. In the wake of above, the petition, in my opinion needs to be allowed. Thus, the judgment and order dated 3rd December, 2015, passed by respondent no.1 in Revision No.6 of 2015 and order dated 1st December, 2014, passed by respondent no.2, stand quashed and set aside.

The matter stands restored to the file of respondent no.2, who shall deal with the claim of disqualification of respondent no.3, keeping in mind the aforesaid factual position.

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Parties shall appear before respondent no.2 on 9th October, 2017 along with written submissions, if any.

Respondent no.2 pass an order within a period of four weeks thereafter, after hearing the parties.

With above observations and directions, petition stands partly allowed.

(NITIN W. SAMBRE, J.)

amj