

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4044 OF 2017

Gyanba s/o Trimbakrao Shirale,
Age: 42 years, Occ: Agril.,
R/o. Phulkalas, Post: Tadkalas,
Tq. Purna, Dist. Parbhani.

... **Petitioner**

Vs.

- 1) The State of Maharashtra
Through Hon'ble Minister,
Marketing Department,
Mantralaya, Mumbai -32.
- 2) The Director of Marketing,
Maharashtra State, Pune
3rd Floor, New Administrative
Building, Pune – 411 001.
- 3) The Divisional Joint Registrar,
Co-operative Societies, Aurangabad
Tq. and Dist. Aurangabad.
- 4) The District Deputy Registrar,
Co-operative Societies, Parbhani,
Tq. and Dist. Parbhani.
- 5) The Assistant Registrar,
Co-operative Societies, Purna,
Tq. Purna, Dist. Parbhani.
- 6) The Returning Officer,
Agricultural Produce Market Committee,
Tadkalas, Tq. Purna,
Dist. Parbhani.
- 7) The Agricultural Produce
Market Committee,
Tadkalas, Tq. Purna,
Dist. Parbhani.
Through its Secretary/Administrator

- 8) Prayagbai w/o Amruta Bhalerao,
Age: 39 years, Occ: Household & Agril.,
R/o. Mahagaon, Post: Kalgaon,
Tq. Purna, Dist. Parbhani.
- 9) Narhari s/o Sonba Shingare,
Age: 45 years, Occ: Agril.,
R/o. Dastapur, Post: Majlapur,
Tq. Purna, Dist. Parbhani.
- 10) Santosh s/o Nagorao Lendale,
Age: 45 years, Occ: Agril.,
R/o. Mahagaon, Post: Kalgaon,
Tq. Purna, Dist. Parbhani.

... **Respondents**

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Advocate for Petitioner : Ghatol Patil Shahaji B. & U. M. Maske-patil
AGP for Respondents: S.R. Yadav Lonikar
Advocate for Respondents : S.B. Sontakke for R/8

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CORAM : P.R. BORA, J.
DATE : 29-03-2017.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard finally with consent of the learned counsel appearing for the parties.
2. Orders passed by the District Deputy Registrar, Parbhani in three different appeals thereby allowing the appeals respectively filed by the respondent nos. 8 to 10 and consequently holding their nominations valid for the election of Market Committee, Tadkalas, District Parbhani are challenged by the petitioner in the present petition.
3. The nominations of respondent nos. 8 to 10 were rejected by the Returning Officer on the ground that, the said respondents did not submit declaration as is required under Rule 45

(2-A) of The Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 read with Section 13(1) of The Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. Respondent Nos. 8 to 10, admittedly, belong to Other Backward Class. The respondent nos. 8 to 10 filed appeals before the District Deputy Registrar, Co-operative Societies, Parbhani, challenging the rejection of their nominations by the Returning Officer. The learned District Deputy Registrar allowed the appeal filed by the respondent nos. 8 to 10 and consequently held their nominations valid for the election of the Tadkalas, Agricultural Produce Market Committee, District Parbhani. Aggrieved by the petitioner has filed the present petition.

4. The learned counsel appearing for the petitioner invited my attention to Section 13(1)(a)(i) of The Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 which reads thus:

13. Constitution of Market Committees.

(1) Subject to the provisions of Sub-section (2), every Market committee consists of the following [-----]members,

(a) [fifteen agriculturists residing in the market area (being persons whose names appear in the voter's list for the concerned constituency and who are not less than twenty one years of age on the date specified, from time to time, by the Collector or the District Deputy Registrar, as the case may be, in this behalf), as specified below;-]

(i) eleven (of which, two shall be women,

one shall be a person belonging to Other Backward Classes and one shall be a person belonging to De-notified Tribes (Vimukta Jatis) or Nomadic Tribes) shall be elected by members of the Managing Committees of the Agricultural Credit Societies and Multi-purpose Co-operative Societies (within the meaning of the Maharashtra Co-operative Societies Act, 1960 and the rules made thereunder), functioning in the market area:

Provided that, where the market Committee is situated in Tribal areas, one person belonging to the Scheduled Tribes shall be elected in place of the election of the person belonging to the De-notified Tribes (Vimukta Jatis) or Nomadic Tribes as aforesaid; and...

5. The learned counsel, thereafter, invited my attention to Rule 45 2-A of The Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 which reads thus:

[45 (2-A)] In the case of reserved seat under the provisions of Section 13(1), a candidate shall not be deemed to be qualified to be chosen to fill that seat unless his nomination paper contains a declaration by him specifying the particulars of scheduled caste or scheduled tribe of which he is a member.]

6. Referring to the aforesaid provisions, the learned counsel submitted that, it was mandatory for respondent nos. 8 to 10 to give a declaration specifying the particulars of the caste of which they are the members. The learned counsel submitted that, the Returning Officer had rightly rejected the nominations of respondent nos. 8 to 10 for non-compliance of Rule 45 (2-A). The

learned counsel further submitted that, respondent no.4, however, wrongly interpreted Rule 45 (2-A) and has set aside the order passed by the Returning Officer on erroneous grounds. The learned counsel, therefore, prayed for setting aside the order passed by the Respondent no.4.

7. The learned A.G.P. as well as the learned counsel appearing for the respondent no.8 have supported the impugned order.

8. I have carefully considered the submissions advanced by the learned counsel appearing for the respective parties. In Rule 45 (2-A), though, there is a reference of Section 13(1) of the Act of 1963, the mandate of giving a declaration is restricted to the candidate belonging to scheduled caste or scheduled tribe to specify the particulars of scheduled caste or scheduled tribe of which he is a member. Even in the nomination form declaration is expected to be given only by the candidates belonging to scheduled caste or scheduled tribe and rightly so since Rule 45 (2-A) mandates such declaration only from the candidates belonging to scheduled caste or scheduled tribe. Since no provision in the Act or Rules requires a candidate belonging to Other Backward Class to give a declaration as about his caste there was no reason for rejecting the nominations of respondent nos. 8 to 10 by the Returning Officer. The order passed by the Returning Officer was illegal and

unsustainable. The District Deputy Registrar has rightly set aside the said order vide the impugned order. I see no reason to cause interference in the order so passed. The writ petition being devoid of any substance deserves to be dismissed and is accordingly dismissed, however, without any order as to the costs. Rule discharged.

(P.R. BORA)
JUDGE