

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION (L) NO.33457 OF 2017**

Rajaram Shivram Kadam & Ors.] ... Petitioners

Versus

State of Maharashtra & Ors.] ... Respondents

Mr. I. R. Kulkarni for Petitioners.
Mrs. M. P. Thakur, AGP for State.
Mr. M. J. Bhatt for Respondent No.5.

CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE :- 04 DECEMBER, 2017

P. C. :-

The above Writ Petition has been filed impugning the election process for elections to be held to the Respondent No.5 – Co-operative Society. The Respondent No.5 is a Co-operative Housing Society and has, on its roll, about 275 members. The election programme is at the stage where only the voting is to take place on 07/12/2017 as the final list of contesting candidates is also published.

The election programme has gone through the gamut of the provisional list of members being published and thereafter the final list of voters. Nominations were thereafter invited and it is pursuant thereto that the final list of contesting candidates has been published. The said exercise has been questioned on behalf of the Petitioners by contending that the election programme has not been published in a daily newspaper as required by the Circular dated 14/01/2015 issued by the Co-operative Election Authority. Clause (IV) of the Circular is sought to be relied upon by the learned Counsel for the Petitioners which, according to him, postulates that the election programme is required to be published in a daily newspaper. In the said context, it is required to be noted that Rule 19 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 and proviso to Sub-Rule (4) thereof carves out an exception insofar as 'C' and 'D' class societies are concerned. Insofar as 'C' and 'D' class societies are concerned, the election programme is to be published on the notice-board of the Society and in the local body situated in the area of operation, as the case may be. The Respondent No.5 is admittedly a 'C' class society. It is not the case of the Petitioners that such a publication was not done on the notice-board of the Society.

However, the Petitioners have come with a specific case that since the election programme has not been published in a local newspaper, the mandate of the Circular has not been followed. The Circular, as can be seen, only replicates what has been stated in the Rule. In our view, since in cases of 'C' and 'D' class societies the publication on the notice-board is sufficient, there is no merit in the contention urged on behalf of the Petitioners. No relief can, therefore, be granted to the Petitioners. The Writ Petition is accordingly dismissed.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)