

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, NAGPUR.**

**WRIT PETITION NO. 639 OF 2017**

Naneshwar S/o. Ramchandra Gharjare,  
Aged 45 years, R/o. at Saleburdi,  
Post : Hardoli, Tq. Mohadi, Dist.Bhandara.

.... **PETITIONER.**

**// VERSUS //**

1. District Co-operative Election/  
Returning Officer of the Bhandara  
District Central Co-operative Bank  
Ltd., Bhandara and the Divisional  
Joint Registrar Co-operative Societies  
Nagpur, at Dhanwate Chambers  
Annex, Sitabuldi, Nagpur.
2. Vividh Karyakari Seva Sahakari Sanstha  
Saleburdi, Post : Hardoli, Tq. Mohadi,  
Distt. Bhandara.
3. Bhagwan Domaji Randive,  
aged Adult, R/o. at Saleburdi,  
Post Hardoli, Tq. Mohadi,  
Distt. Bhandara.

.... **RESPONDENTS.**

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Shri S.Paliwal, Advocate for Petitioner.  
Ms Shamsi Haider, A.G.P. for Respondent No.1.  
Ms A.R.Taiwade, Advocate for Respondent No.3.  
Shri A.M.Ghare, Advocate for Intervener.

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**CORAM : Z.A.HAQ, J.**  
**DATED : MARCH 21, 2017.**

**ORAL JUDGMENT :**

1. Heard.

2. **RULE.** Rule made returnable forthwith.

3. The petitioner has challenged the order passed by the District Co-operative Election Officer directing that name of the respondent No.3 be included in the list of voters for the elections of Board of Directors of the Bhandara District Central Co-operative Bank, Bhandara, as representative of the respondent No.2-Society.

4. According to the petitioner, the Executive Committee of the respondent No.2-Society had elected him in the meeting of the Executive Committee held on 22nd January, 2016 to be the representative of the respondent No.2-Society and in the annual general meeting held on 13th August, 2016 the resolution passed by the Executive Committee on 22nd January, 2016 was confirmed, however, after the election of new Executive Committee on 5th September, 2016, the newly elected Executive Committee passed resolution on 10th November, 2016 to the effect that the name of the respondent No.3 should be sent for inclusion in the voters list in place of name of the petitioner. The contention of the petitioner is that the petitioner having been elected as representative of the respondent No.2-Society for the elections of Board of Directors of the bank by the general body, the decision

can be changed/ modified only by resolution of the general body and the Executive Committee cannot change or modify the earlier decision. The learned advocate for the petitioner relied on the provisions of Rule 10(4) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 which provides that the names of the representative can be changed only in case of death of the earlier representative or where there is newly elected committee of the principal society and this can be done only by a resolution like the resolution by which the name of the earlier representative was finalized. It is argued that in the present case, the name of the petitioner was finalized by a resolution passed by the general body and therefore, the newly elected Executive Committee cannot change the name of the representative and communicate the name of the respondent No.3 in place of the petitioner to be the representative of the respondent No.2-society for the purposes of election of the bank.

5. The respondent No.3 disputes the claim of the petitioner. According to the respondent No.3, the issue regarding confirmation of resolution No.1 taken in Executive Committee meeting on 22nd January, 2016 was not placed before the General Body in its annual meeting held on 13th August, 2016.

The petitioner has placed copies of the resolutions said to have been passed on 22nd January, 2016 and 13th August, 2016. Though in the

cause title of the petition it is not shown through whom the respondent No.2-Society is to be represented, the advocate for the petitioner has relied on the provisions of Sections 36 and 27 of the Maharashtra Co-operative Societies Act, 1960 and the judgment given in the case of *Sachin Sahakari Gruhanirman ..vs.. Shree Ram Construction Co.*, reported in **AIR 1981 Bombay 260** to argue that the respondent No.2 is a body corporate and can institute and defend the suits and other legal proceedings. The office note shows that the respondent No.2 society is served. There is no appearance on behalf of the respondent No.2-society. The respondent No.3 has not taken any steps to seek production of the original proceedings book / meeting book to substantiate his contention that the issue regarding confirmation of resolution No.1 taken in the executive committee's meeting held on 22nd January, 2016 was not placed before the general body in its annual meeting held on 13th August, 2016. In these facts, it has to be held that the name of the petitioner was finalized as the representative of the respondent No.2-society for the elections of the bank by the general body by confirming the resolution passed by the executive committee and in view of the provisions of Rule 10(4) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014, the executive Committee of the respondent No.2 cannot change or modify the decision of the general body.

Hence, the following order :

Rule is made absolute in terms of prayer clause (i) of the petition. In the circumstances, the parties to bear their own costs.

CAW NO. 637/2017.

The applicant bank is neither necessary nor proper party to the petition and the lis is between the petitioner and the respondents.

Therefore, the civil application is **dismissed**.

**JUDGE**

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