

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

WRIT PETITION NO. 3132 OF 2018

RANJEET RATAN SHEJUL
VERSUS
THE STATE CO OPERATIVE ELECTION AUTHORITY
MAHARASHTRASTATE PUNE AND OTHERS

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Advocate for Petitioner	: Shri V. A. Bagal
Advocate for respondent Nos.1 and 2	: Shri S. K. Kadam
Advocate for respondent No. 3	: Shri M. V. Nagargoje

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CORAM : RAVINDRA V. GHUGE, J.
DATED : 26th March, 2018.

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PER COURT :-

1] The petitioner is aggrieved by the order passed by respondent No. 2 - Returning Officer dated 13/03/2018, by which, the nomination form of respondent No. 4 Rupsing Ambarsing Sundarde has been accepted without passing any order on the specific objections raised by the petitioner before the Returning officer on 12/03/2018.

2] I have considered the submissions of the learned advocate for the petitioner and the learned standing advocate for respondent Nos. 1 and 2. So also, I have gone through the record.

3] The petitioner has filed a service affidavit to indicate that respondent Nos. 3 and 4 have been served by private notice and the copy of the tracking report of the website of the Department of Posts, Ministry of Communications, Government of India is also placed on record, which indicates that respondent Nos. 3 and 4 have been served. The said affidavit alongwith the tracking report is taken on record and is collectively marked as 'X-1' for identification. Yet, no appearance is entered on behalf of respondent No. 4.

4] There is no dispute that Rule 21(3) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014, r/w Section 73-CA (1)(vii) of the Maharashtra Co-operative Societies Act (for short 'the MCS Act') disqualifies a candidate who has more than two children after the cut off date. If a person already has two children on the date of the commencement of the MCS Act (Third Edition amendment) 2001 which was introduced on 07-09-2001, he shall not be disqualified as long as the number of children that he had on the date of such commencement, do not increase.

5] The petitioner points out from the nomination form dated 09/03/2018 that respondent No. 4 has indicated through the declaration form that he has no children. Similarly, he has filed an affidavit on 09/03/2018 stating that the contents of his form and the declaration are true and correct. The petitioner then indicates that the first child of respondent No. 4 namely Priyanka was born on 21/10/1999, the second child Puja was born on 01/11/2001 and the third child Akash was born on 16/06/2003. He has placed on record the School Admission Extracts of the two children, namely, Puja and Akash to indicate their date of birth. Same are taken on record and marked as 'X-2' and 'X-3' respectively. So also, he points out from the birth certificates of Priyanka, Puja and Akash which established that Akash was born on 16/06/2003 after the cut off date.

6] *Prima-facie*, the above documents and record indicates that Rupsing s/o Ambarsing Sundarde has three children and Akash is born after the cut off date. He may therefore, attract a disqualification under Section 73-CA (1) (vii) of the MCS Act. Apparently, the Returning Officer has not applied his mind and has not passed any order on the

objections raised by the petitioner.

7] In the light of the fact that respondent No. 4 has been served by the petitioner and that he has not caused an appearance, this Court could have passed orders on this Writ Petition, but refrains from doing so for the reason that the last date of withdrawal is 04/04/2018 and the polling is scheduled on 10/04/2018.

8] The Honourable Apex Court in the matter of *Shri Sant Sadguru Janardan Swami Vs. State of Maharashtra and others AIR 2001 Supreme Court 3982*, has laid down the law that once the election process has commenced, this Court should be extremely slow in interjecting in the said process.

9] As such, in view of the above observations and in the light of the documents placed on record, this petition is disposed of with liberty to the petitioner to seek the disqualification of respondent No. 4, in the event he is elected, before the appropriate authority under Section 73-CA (1)(vii) of the MCS Act.

(RAVINDRA V. GHUGE, J.)

shp/-

