

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 13166 OF 2018

Ajinath Narayan Raut

...Petitioner

Versus

State Of Maharashtra
and others

..Respondents

....

Mr. Ganesh Bhujbal, Advocate for the Petitioner.

Mr. S.H. Kankal, AGP, for Respondents No.1 to 3-State.

Mr. Deelip N. Patil (Bankar), for Respondents No.4 & 6.

Mr. Abhijeet Kulkarni, Advocate for Respondent No.7.

....

CORAM : R. G. KETKAR, J.

DATE : 22nd NOVEMBER, 2018

P.C.

1. Not on board. At the request of Mr.Bhujbal taken up for admission.
2. Heard Mr.Ganesh Bhujbal, learned counsel for the petitioner, Mr. S.H. Kankal, learned AGP for respondents No.1 to 3-State, Mr. Deelip N. Patil (Bankar), learned counsel for respondents No.4 & 6 and Mr. Abhijeet Kulkarni, learned counsel for respondent No.7, at length.
3. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 29.10.2018 passed by

respondent No.4, the Returning Officer Shri Shankar Sahakari Sakhar Karkhana Ltd. Sadashivnagar, Taluka – Malshiras, District – Solapur. By that order, the objections raised by the petitioners for acceptance of nomination of the seventh respondent were overruled.

4. In support of this Petition, Mr. Bhujbal submitted that respondent No.7 was one of the Directors of respondent No.5 herein. While he was acting as Director of respondent No.5, by order dated 23.10.2012 Administrator was appointed under Section 78 of the Maharashtra Co-operative Societies Act, 1960 (for short, 'Act'). In view thereof, respondent No.7 has incurred disqualification and his nomination deserves to be rejected. By the impugned order, respondent No.4 has overruled the objections and accepted the nomination papers of the 7th respondent. He, therefore, submitted that the petition requires consideration.

5. On the other hand, learned counsel for the respondents submitted that the consequences of appointing Administrator under Section 78 of the Act will not result in disqualification of respondent No.7 from contesting the election of the 5th respondent. It was further submitted that the last date of filing nomination was 14.11.2018. The allocation of symbols was published on 15.11.2018. Printing of ballot have been completed by 19.11.2018 and the elections are scheduled on 25.11.2018 between 8:00 a.m. and 5:00 p.m. In other words the election process has already commenced. As the election process is set in motion, interference of this Court is not warranted.

6. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. A perusal of the impugned order shows that respondent No.4 recorded that the petitioner did not produce the order appointing Administrator under Section 78 of the Act. That apart, in view of the fact that the election process is already set in motion and the polling is scheduled on 25.11.2018, I do not find that this is a fit case for invocation of powers under Article 227 of the Constitution of India. Reserving liberty to the petitioner to exhaust alternate remedy, the Petition is dismissed. It is made clear that if such remedy is exhausted, the concerned Authority will decide the same in accordance with law uninfluenced by the observations made in the impugned order as also in this order. All contentions of the parties on merits are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)