

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.396 OF 2018
IN
WRIT PETITION NO.1500 OF 2018**

Mr.Abhay Kumar Daga and ors. : Petitioners.

Versus

**Navyug Sagar Co-operative Housing
Society Limited and ors. : Respondents.**

Mr. Javed A Khan for the Petitioners.

Mr. Udayan Shah i/by Mr. S S Gawde for the Respondent No.4.

**Mr. Hemant Mehta a/w Mr. Sualeh Nagvadaria i/by Mehta and Co. for the
Respondent No.6 and 8.**

Ms. Prabha U Badadare for the Respondent No.10.

**Mr. A B Vagyani Govt. Pleader a/w Mrs.K.R.Kulkarni, AGP, Mr.R.S.Pawar,
AAGP and Mr.C P Yadav, AGP for the Respondent/State.**

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE, JJ.**

DATE : 16th FEBRUARY 2018

P.C.

1 The above Civil Application has been filed for the reliefs inter-alia mentioned therein, but principally questioning the manner in which the elections are being held to the Society in question i.e. Navyug Sagar Co-operative Housing Society Limited. We by our order dated 14/02/2018 had directed the authorities to file an affidavit stating that the procedure as contemplated by the Maharashtra Co-operative Societies (Election to Committee) Rules prior to the voting which was to take place on 13/02/2018 has been followed. Pursuant to the said directions, an affidavit has been filed by the Deputy Registrar, Co-operative Societies, D Ward, Mumbai Dr.Sunil

Tukaram Kothawale mentioning therein that the steps that were taken by him to hold the elections. To the said affidavit, an Affidavit-in-Rejoinder came to be filed by the Petitioner questioning the statements which were made in the affidavit in reply filed by the Deputy Registrar Dr. Kothawale.

2 We prima facie found that the statements made in the said affidavit in reply of Dr. Kothawale were not acceptable in the teeth of the Maharashtra Co-operative Societies Act and the Rules. Prima facie we also found that the procedure contemplated by the Election Rules was not followed in the matter of holding the elections to the said Society. The said view of ours was on the basis that the Society is presently managed by the Administrator. However the Deputy Registrar Dr. Kothawale has filed an Additional Affidavit bearing today's date i.e. 16/02/2018 and sworn before the Notary Public Government of India Shri Pravin G Sawant and entered in the register at Sr.No.344 bearing today's date. In the said affidavit the Deputy Registrar, Dr. Kothawale has accepted the fact that the procedure laid down in the Maharashtra Co-operative Societies Act and the Rules for conducting the elections of the Society was not duly followed as a result of which the election process stands cancelled and withdrawn. He has further stated that he would forthwith declare and hold fresh election of the said Society in accordance with law and by following due procedure as laid down in the Maharashtra Co-operative Societies Act and the Rules and more specifically Rules 75 and 76

therein. He has also tendered sincere and unconditional apology for the manner in which the election process was initiated and held and also tendered apology for the averments made in the affidavit in reply dated 15/02/2018 and more specifically paras 4 to 8 thereof. He has also expressed remorse.

3 In view of the said Additional Affidavit dated 16/02/2018 we do not deem it appropriate to dilate further on the said aspect. We hope and trust that the election to the said Society would be conducted in accordance with the Maharashtra Co-operative Societies Act and the Rules. The above Civil Application to accordingly stand disposed of.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]