

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7275 OF 2016

Dilip Baburao Pawar & Ors. Petitioners

VERSUS

State of Maharashtra & Ors. Respondents

Mr.P.S.Dani, Senior Advocate, i/b. Mr.N.V.Khaladkar for the Petitioners.

Mr.S.D.Rayrikar, A.G.P. for the State – Respondent nos. 1, 3 and 4.

Mr.S.S.Kanetkar, a/w. Mr.R.B.Kulkarni for the Respondent no.5.

Mr.A.V.Anturkar, Senior Advocate, i/b. Mr.Amol Gatne for the Respondent nos. 6 to 15.

CORAM : R.D. DHANUKA, J.

DATE : 26th MARCH, 2018

P.C.

By this petition filed under Article 227 of the Constitution of India, the petitioner has impugned the order dated 23rd June, 2016 passed by the respondent no.4 thereby disqualifying the present petitioners to be members of the managing committee of the respondent no.5 society under the provisions of Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 for a period of three years.

2. It is not in dispute that the election officer who was appointed under the provisions of the said Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 had conducted the election in the

office of the society. After the election was held on 28th November, 2015, the said election officer ceased to have office in the premises of the society. The petitioners were declared as elected for the year 2015 to 2020.

3. Certain correspondence however continued to be exchanged between the election officer and the petitioners post election.

4. It is the case of the petitioners that the election officer had permitted the petitioners to file accounts of the election expenses account in the same office which was occupied by the election officer for the purposes of conducting election. A resolution was passed by the society to that effect on 22nd December, 2015. The petitioners have alleged to have submitted the accounts of election expenses with the society on 26th December, 2015. The respondent no.7 filed a complaint against the petitioners on 25th April, 2016 with the respondent no.3.

5. A show cause notice was issued to the petitioners on 26th April, 2016 which was replied by the petitioners contending that the said election officer had already permitted the petitioners to file election expenses account in the society office which was occupied by the election officer for the purposes of conducting election. The said officer was confronted with the stand taken by the petitioners. The said officer informed the authority in writing that he had not authorized any of the petitioners to file the statement of election expenses in the society office. The petitioners thereafter did not produce any other proof before the authority authorizing them to ignore the provisions of

the Rule 66(B) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014.

6. Mr.Dani, learned senior counsel for the petitioners does not dispute that the statement of election expenses were not filed as contemplated under Rule 66(B) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014. It is submitted that the said provision shall be interpreted liberally. He submits that the fact remains that the account of the election expenses has been filed in the society's office and not with the respondent no.5 as contemplated under Rule 66(B) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014.

7. Mr.Anturkar, learned senior counsel for the respondent nos. 6 to 15 invited my attention to some of the correspondence exchanged between the parties including the resolution passed by the society alleging that Mr.Pardeshi, the election officer had orally permitted the petitioners to submit the election expenses in the society office. He also invited my attention to the reply given by the petitioners to the show cause notice issued by the authority in which the petitioners had contended that it was not the duty of the petitioners to submit the election expenses with the authority under Rule 66(B) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014. But the said officer ought to have collected the said account of the election expenses from the office of the society.

8. The allegation of the petitioners is disputed by Mr.Pardeshi, the

election officer by addressing a letter to the authority which has not been controverted by the petitioners. The contention of the petitioners in my view is contrary to the requirement under Rule 66(B) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014. The authority has considered this aspect in great detail in the impugned order which is subject matter of this petition. The findings rendered by the authority are not perverse and are in conformity with the provisions of Rule 66(B) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014.

9. In my view the petitioners have not complied with the said rule and have falsely alleged that the election officer had orally permitted the petitioners to file accounts of election expenses with the society. The petitioners are thus rightly disqualified by the authority from conducting election for three years from the date of the impugned order. The petition is devoid of merits and is accordingly dismissed.

10. Ad-interim protection granted by this court is stayed for a period of eight weeks from today.

[R.D. DHANUKA, J.]