

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 14555 OF 2018

Mr. Ishwar Bapurao Thombare

...Petitioner

Versus

The Administrator, Bajaj Auto Employees
Co-operative Credit Society Ltd. and others

...Respondents

....

Mr. Abhaykumar Apte, Advocate for the Petitioner.
Mr. C.D. Mali, A.G.P. for Respondent No.6-State.

....

CORAM : R. G. KETKAR, J.

DATE : 21st DECEMBER, 2018

P.C.

1. Not on board. At the request of Mr.Apte taken up for admission.
2. Heard Mr.Abhaykumar Apte, learned counsel for the petitioner and Mr.C.D. Mali, learned counsel for respondent No.6, at length.
3. By this Petition under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the order dated 13.12.2018 passed by respondent No.2, the Returning Officer, Bajaj Auto Employees Co-operative Credit Society Ltd. By that order, respondent No.2 rejected the applications dated 21.11.2018 and

7.12.2018 made by Ishwar Thombare and others as also the application dated 26.11.2018 made by Sarjerao Patil and others.

4. In support of this Petition, Mr. Apte submitted that in the impugned order, respondent No.1 held that the election programme was published on 13.11.2018 in daily "Pudhari". It was held that the provisional voters' list was published on 4.10.2018. On 5.10.2018, notice was published in daily newspaper inviting objections. The final voters' list was published on 30.10.2018. However, no such notices were published. In other words, the final voters' list was published on 30.10.2018 without inviting objections to the provisiona voters' list.

5. Mr. Apte invited my attention to the communication dated 4.12.2018 addressed by the D.G.M. (Industrial Relations) of Bajaj Auto Limited to Ishwar Thombare and others setting out therein that in the application dated 4.12.2018, list of 21 members was enclosed. Out of 21 members, 19 members are not in the employment of the company. He also invited my attention to the letter dated 4.12.2018 addressed by Balasaheb Thanage and 15 others to the Commissioner and Secretary of the State Co-operative Election Tribunal requesting them not to permit the members who are no longer in the employment in the Company. He submitted that by communication dated 17.12.2018, the General

Manager (Corporate Industrial Relations) of the company informed the election officer of Bajaj Auto Employee's Co-operative Credit Society Ltd. that the company has not received any voters' list from his office for displaying and verification. A list of voters was sent to the company for displaying during last election of 2015.

6. Mr.Apte further submitted that 21 persons are not the employees of Bajaj Auto Limited list whereof is annexed at page-80 of the Writ Petition. These employees have already been dismissed or have retired or expired and still their names appear in the voters' list. In any case, they should be prohibited from participating in the election. He, therefore, submitted that the persons mentioned on page-80 may be prohibited from participating in the election process.

7. With the assistance of the learned counsel for the parties, I have perused the material on record. A perusal of the election programme declared on 13.11.2018 shows that the publication of the validly nominated candidates and allotment of symbols was published at 11:30 a.m. on 11.12.2018 in the office of the second respondent. Election is scheduled on 23.12.2018 between 9:00 a.m. and 5:00 p.m. and counting will take place immediately after half an hour. While rejecting the application, respondent No.2 observed that the election

programme is at final stage and in the past also election was conducted on Public Holiday successfully. Respondent No.2, therefore, rejected the application.

8. In view of the fact that only the voting is to take place on 23.12.2018 and the election process is set in motion, I do not find that any case is made out for invocation of powers under Articles 226 and 227 of the Constitution of India. Hence, the petition fails and the same is dismissed reserving liberty to the petitioner to challenge the election after results are declared. It is made clear that if the petitioner takes out appropriate proceedings the same shall be decided uninfluenced by the observations made in the impugned order and this order. All contentions of the parties on merits are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)

Deshmane (PS)