

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13280 OF 2017

KACHARDAS BHAURAO RAUT
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.D.J.Choudhary, Advocate for the petitioner.
Mr.N.T.Bhagat, AGP for respondent Nos. 1 and 6.
Mr.S.K.Kadam, Advocate for respondent Nos.2 to 4.
Mr.K.J.Suryawanshi, Advocate for respondent No.5.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 22/08/2019

PER COURT :

1. This matter was heard on 15/11/2017 and this Court (Coram : V.K.Jadhav, J.) passed the following order :-

"1. Heard. Leave to correct the nomenclatures of respondent Nos. 3 and 4.

2. Issue notice to the respondents, returnable on 06.12.2017.

3. Learned A.G.P. waives notice for respondent Nos. 1 and 6, learned counsel Mr. Kadam, waives notice for respondent Nos. 2, 3 and 4 and learned counsel Mr. Suryawanshi, waives notice for respondent No.5.

4. Learned counsel for the petitioner submits that conditional

resignations dated 9.10.2017 were submitted by 9 directors of Lokvikas Nagari Sahakari Bank Ltd. Aurangabad, out of 16 elected directors. It was the condition that unless and until resignations of all directors are accepted, the aforesaid resignations shall not be acted upon. Learned counsel submits that subsequently, the said resignations have also been withdrawn on 12.10.2017 and 13.10.2017, respectively. However, without fulfilling the condition, the resignations alleged to be sanctioned, illegally. Further the dispute bearing No. 69 of 2017 has been filed in the Co-operative Court at Aurangabad challenging the resolution of accepting the alleged resignations. However, during pendency of dispute, respondent No.2 has issued an order appointing respondent No.4 to hold the election to the post of Vice Chairman of respondent No.5 Bank. Learned counsel submits that even respondent No.5 has prepared a record of filling up four posts of directors in violation of provisions of Section 73-CB r.w. Section 73-AAA of the Act of 1960.

5. Thus, considering the above submissions, I am inclined to grant ad-interim relief in the form of status quo. In view of the same, the parties are directed to maintain status quo as on today, till the next date."

2. I have heard the strenuous submissions of the learned Advocates for the respective sides. The contention of the petitioner is as under :-

[a] The petitioner had lodged complaints against certain Directors in the aftermath of the demonetization in this Country.

[b] The CEO of the Bank directed that no Directors should be allowed to enter the Bank and no records should be shown to these petitioners.

[c] On 09/10/2017, the petitioner alongwith some other Directors (9 of them) tendered their resignations with the condition that the resignation of these 9 persons should be accepted together or else no resignation be accepted.

[d] On 12/10/2017, these resigning Directors submitted a joint withdrawal of resignation letter, which the Bank allegedly refused to accept. Copy was delivered to the Deputy District Registrar (Co-operative Societies).

[e] An e-mail was sent to the Bank on 13/10/2017.

[f] On 30/10/2017, the special meeting was convened and the resignation of only this petitioner and 3 others were accepted. Resignation of 5 others were not accepted on the ground that they had tendered their individual withdrawal of resignation applications.

[g] Only 6 months remain for the conclusion of the tenure of the Directors and therefore election to the position of the Vice Chairman of the Bank, which has fallen vacant owing to a resignation, need not be filled in.

3. The learned Advocate for respondent No.5 submits that the issue as to whether the 4 directors had validly withdrawn their resignations, is subjudice before the Co-operative Court in CCA No.69/2017. Whether the resignations were legal or their acceptance was legally unsustainable, is also to be decided by the said Court. The petitioner alongwith 3 others have pressed application Exh.5 for interim relief before the Co-operative Court seeking a stay to the acceptance of their resignation and leave to officiate as Directors of the Bank. By order dated 18/09/2018, the Co-operative Court rejected application Exh.5. The said 4 persons approached the Maharashtra State Co-operative Appellate Court in AO No.4/2018 and by judgment dated 19/12/2018, the said AO has been rejected.

4. The learned Advocates strenuously submits that the petitioner has suppressed material facts from this Court. This, petitioner alongwith other former 3 members pressed before the Co-operative Court on 31/10/2017 that a direction be issued that the position of the Vice Chairman shall not be filled in by election, as an Election Officer/respondent No.4 was appointed by the competent authority/respondent No.2 to hold the election to the post of Vice Chairman of the Bank. The Co-operative Bank refused to grant ad-

interim relief and rejected the request with a speaking order on 31/10/2017, which is placed on record by respondent No.5 alongwith the affidavit in reply.

5. In the light of the above contention that the petitioner has suppressed material information from this Court, I called upon the learned Advocate for the petitioner to point out whether it is mentioned in the memo of the petition that the 4 Ex-Directors had requested the Co-operative Court to stay the election to the position of Vice Chairman and that the Co-operative Court had rejected the request. The learned Advocate perused the memo of the petition threadbare and submitted that besides his contentions as regards why election should not be held, it is not mentioned that a prayer was made before the Co-operative Court and the said prayer has been rejected.

6. I find that the conduct of the petitioner is squarely covered by the judgment delivered by the Hon'ble Apex Court in the matter of Bhaskar Laxman Jadhav Vs. Karmaveer Kakasaheb Wagh Education Society and others [AIR 2013 SC 523], wherein the Hon'ble Apex Court has held that it is not the domain of a litigant to filter material information and decide what should be placed before the Court and

what should be held back from the Court. A litigant is duty bound to place on record entire facts and leave it to the Court to appreciate such facts. In the matter of Kishore Samrite Vs. State of UP and others [(2013) 2 SCC 398], the Hon'ble Apex Court has held that the litigant who plays tricks with the Court for obtaining relief, should be deprived of relief even if he has a good case.

7. It is visible from the record that when my learned brother passed the order on 15/11/2017, there was nothing before him as regards the fact that the petitioner had prayed for a stay to the election of the Vice Chairman and the Co-operative Court had rejected the said request. This information was suppressed from the Court.

8. In view of the above, this petition is dismissed by imposing costs of Rs.25,000/-, which the petitioner shall deposit in this Court on or before 09/09/2019, failing which, the proceedings initiated by the petitioner before the Co-operative Court shall be dismissed in default besides this Court initiating action of recovery of money as well as Contempt of Court.

9. The learned Advocate for respondent No.5, Mr.Kadam, learned

Advocate for respondent Nos. 2, 3 and 4 Election Authority and the learned AGP submit that this amount be donated to the Social Project **“Shantivan”, Arvi, Tq.Shirur Kasar, District Beed.** The Registry of this Court shall transfer the said amount in the name of **“Bhavani Vidhyarthi Kalyan Pratishthan, Arvi”)** by way of **electronic transfer (State Bank of India, Branch Shirur (Kasar), Account No.33446000963, IFSC Code : SBIN0005995)** and shall report compliance.

(Ravindra V.Ghuge, J.)