

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

WRIT PETITION NO.3170 OF 2019

Shri.Kapil Vishnu Thale

..Petitioner

V/s.

The State of Maharashtra

Through the Principal Secretary & Ors.

.. Respondents

Dr.D.S. Hatte i/b Mr.Deepak Jamsandekar and Ms.Apurva Hire for
the Petitioner.

Mrs.M.S. Shrivastav, AGP for the Respondent-State.

Mr.J.S. Yadav for Respondent No.4.

**CORAM : RANJIT MORE &
SMT.BHARATI H. DANGRE, JJ.**

DATE : 15th MARCH 2019

P.C.

1. Heard learned counsel for the respective parties.
2. The General Elections of the Kalyan Agricultural Produce Market Committee ('AMPC') was held in the month of December 2018. The election program of the Kalyan, APMC was published to elect the Managing Committee of Kalyan, APMC. The Respondent No.4 contested the election as member of the Managing Committee of the said APMC.

3. The petitioner is taking exception to the nomination of the respondent No.4 on the ground that he is having three children and therefore disqualified under the provisions of Section 73CB(1) of the Maharashtra Co-operative Societies Act, 1960.

4. The learned counsel for the petitioner invited our attention to the Maharashtra Act XIII of 2018 where the APMC Act is amended. He particularly invited our attention to Section 21 of the Amended Act where the Clause-(r2) was added after Clause (r1). By the said Clause, the said Election Authority is defined to “means the State Co-operative Election Society constituted under Section 73CB of the Maharashtra Co-operative Societies Act, 1960.” Relying upon this amendment, the learned counsel points out that since the election of the APMC is now conducted by the said Committee, the disqualification under Section 73CA(1)(vii) shall be applicable to the persons contesting election of the APMC and therefore, the respondent No.4 stands disqualified in the same election.

5. We are not able to agree with the learned counsel for the petitioner. By the amending Maharashtra Act XIII of 2018, the State Co-operative Election Authority is defined and Section 14 of

the Principal Act is amended and by virtue of the said amendment of this State Authority is given responsibility of the conducting election of the APMC, instead of Deputy Registrar who was earlier entrusted with the duty of conduct of election. Merely because conduct of the election is entrusted to the State Co-operative Election Authority, that does not mean all the provisions of the Co-operative Societies Act 1960 are automatically applicable to the election of APMC. Under the APMC Act, there is no provision to the effect that the person contesting the election is disqualified merely because he is having more than two children. In absence of such a provision, respondent No.3 cannot be said to be disqualified.

6. After acceptance of the nomination, the petitioner challenged the nomination of the respondent No.4 by filing an appeal. The said appeal is also dismissed for the reasons similar to the one recorded by us above. We do not find any error or perversity in the said order and the writ petition is devoid of any merit and substance and hence is dismissed.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)