

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 640/2017

Sadashiv S/o Barkuji Walthare
..VS..
District Co-operative Election/RO & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. Paliwal, Advocate for the petitioner
Ms. Shamsi Haider, AGP for the respondent no. 1
Shri A.A. Choube, Adv h/f Shri A.A. Naik, Adv for respondent nos. 2 & 3

CORAM : Z.A.HAQ, J.
DATED : 03/01/2019

CIVIL APPLICATION (W) NO. 638/2017

For the reasons stated in the application, the applicant is permitted to get impleaded as the respondent no. 4 in the writ petition.

The civil application is **allowed** accordingly.

WRIT PETITION NO. 640/2017

Heard Shri S. Palliwal, Advocate for the petitioner, Ms. Shamsi Haider, AGP for the respondent no. 1, Shri A.A. Choube, Advocate holding for Shri A.A. Naik, Advocate for the respondent nos. 2 and 3 and Shri A.M. Ghare, Advocate for the respondent no. 4.

By this petition, the petitioner has challenged the order passed by the respondent no. 1 – Returning Officer

directing exclusion of his name from the list of voters. By the order dated 01/02/2017, while issuing notice, this Court has directed that the election programme shall not be declared. The learned advocates for the petitioner and the respondent no. 4 have pointed out that the elections of the respondent no. 4 – Bank are stayed by the Division Bench of this Court while considering the writ petitions which are pending. The learned advocate for the respondent no. 4 has submitted that the elections are delayed by more than a year and the entitlement/eligibility of the petitioner to participate in the elections which may be held after further orders are passed by the Division Bench will have to be considered. It is submitted that there is every chance that for the elections, fresh process may be conducted. It is submitted that in these facts, nothing survives in the petition.

The learned advocate for the petitioner has submitted that if fresh process is not conducted for the elections, and the process is continued from the same stage, the impugned order may adversely affect the petitioner's right to participate in the elections.

In the facts of the case, in my view, the following order would sub-serve the ends of justice:-

(a) Accepting the submission made on behalf of the respondent no. 4, the writ petition is **disposed** as infructuous.

(b) However, if the impugned order affects the right of the petitioner to participate in the election, the petitioner will be at liberty to

revive this writ petition after serving the copy of the application on the advocates representing the respondents.

(c) In the circumstances, the parties to bear their own costs.

JUDGE

Ansari