

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

970 WRIT PETITION NO. 1275 OF 2021

SHIVAJIRAO S/O BAPURAO MOHALE  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. N. B. Khandare h/f  
Mr. N. R. Pawade

AGP for Respondent Nos. 1, 3 & 4 : Mr. S. B. Pulkundwar

Advocate for Respondent No.2 : Mr. S. K. Kadam

Advocate for Respondent No. 5 : Mr. P. D. Bachate

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**CORAM : V. K. JADHAV, J.**  
**DATED : 9<sup>TH</sup> FEBRUARY, 2021**

**PER COURT :-**

1. Heard finally with consent at admission stage.
2. Being aggrieved by the order dated 18.01.2021 passed by respondent no.2-Election Officer, by which the objection raised by the petitioner for inclusion of name of respondent no.5 in the provisional voter list prepared for the ensuing election of Parbhani District Central Co-operative Bank Ltd., Parbhani (for short, "DCC Bank") was turned down, the petitioner, who is the original objector, has preferred the present Writ Petition.

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3. Learned counsel for the petitioner submits that in terms of the service conditions of the DCC Bank, a permanent employee of the Bank cannot contest or participate in the election of the DCC Bank. Rule 28 of the Service Rules specifically restricts the employee of the Bank from active participation in the election of the Bank.

4. Learned counsel for respondent no.5 submits that the petitioner, not being a member of the society, has no locus to raise objection. Learned counsel submits that the society has sent name of respondent no.5 to include the same in the voter list for the ensuing election of the DCC Bank and accordingly, his name is included in the provisional voter list published on 16.03.2020. The petitioner raised objection about inclusion of name of respondent no.5 on the ground that respondent no.5, who is employee of the DCC Bank, cannot participate in the election process of the DCC Bank. Learned counsel submits that name of respondent no.5 is only included in the provisional list of voters and respondent

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no.5 is not contesting the election of the DCC Bank. The employee of the Bank cannot contest the election, but can cast his vote in the election of the Bank. In view of the same, there is no substance in this Writ Petition. The Writ Petition is liable to be dismissed.

5. Learned counsel Mr. S. K. Kadam appearing for respondent no.2-Election Officer submits that so far as the Service Rules of the DCC Bank are concerned, Rule 28 prescribes that the employee cannot contest election, nor he can participate in canvassing the election. Learned counsel submits that if any employee violates Rule 28, he would be subjected to disciplinary action. However, there is no provision in the Maharashtra Co-operative Societies Act, 1960 (for short, "Act of 1960") and the Rules thereof, prescribing a bar for the employee to cast vote in the ensuing election of the Bank as a delegate of the society. Learned counsel submits that in terms of Section 73CA Sub-section (1) clause (vi) of the Act of 1960, any person who is a salaried employee of any society (other than a society of

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employees themselves) or holds any office of profit under any society or is nominated as functional director on the committee of a society under sub-section (2) of Section 73A shall not be eligible for being elected as a member of the society. In view of the same, respondent no.5 can cast vote but he is not eligible to contest the election to become functional director of the DCC Bank.

6. I have also heard learned AGP for the respondent-State.

7. I find no substance in this Writ Petition. Though I have gone through the provisions of Rule 28 of the Service Rules, however, the said provision does not create any bar for the employee to cast his vote in the election of the DCC Bank. Even though certain conditions are prescribed under Rule 28 restraining participation of the employee in the election of the Bank to some extent, however, on violation of the said condition, respondent no.5 may be subjected to disciplinary action, if so required. However, there is no bar as such in the

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provisions of the Maharashtra Co-operative Societies Act, 1960 and the Rules thereof. In view of the same, I find no error in the impugned order passed by Respondent no.2-Election Officer. There is no substance in this Writ Petition. The Writ Petition is hereby dismissed.

( V. K. JADHAV, J. )