

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.1905 OF 2021

Vasant S/o Devrao Khawale,
Age : 48 years, Occu. Agri.,
R/o. Vividh Karyakari Seva Sahakari
Society Ltd., Taroda,
R/o Taroda, Tq. & District Parbhani. ... **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary of Co-operative and
Textile Department, Mantralaya,
Mumbai – 32.
2. The State Co-operative Election Authority,
Maharashtra State Pune.
3. The District Co-operative Election Officer of the
Parbhani District Central Co-operative Bank Ltd.,
Parbhani @ Divisional Joint Registrar Co-operative
Societies, Aurangabad.
4. The Managing Director,
Parbhani District Central Co-operative
Bank Ltd., Parbhani,
Tq. and District Parbhani. ... **Respondents**

...

Mr. V. A. Bagal, Advocate for Petitioner.
Mr. S. P. Deshmukh, AGP for Respondent-State.
Mr. S. K. Kadam, Advocate for Respondent Nos.2 and 3.
Mr. M. S. Deshmukh, Advocates for Respondent No.4.

...

CORAM : V. K. JADHAV, J.
DATE : 03.02.2021.

ORDER :-

1. Heard finally at admission stage by consent of the parties.
2. By way of this present Writ Petition, the petitioner is challenging the order dated 18.01.2021 passed by respondent No.3 thereby rejecting the objection filed by the petitioner seeking direction against respondent No.3 to include the name of the petitioner in the final voter list of respondent No.4 / bank.
3. The learned counsel for the petitioner submits that the petitioner is a Co-operative Society registered under the provisions of Maharashtra Co-operative Societies Act, 1960 and Rules, 1961. The learned counsel submits that the term of the petitioner-society was expired and therefore the Administrator came to be appointed on the said society to manage affairs of the society. Thus, the petitioner-society was not in a position to submit their representative by passing resolution. The learned counsel submits that thereafter the election of the petitioner-society took place and the new Managing Committee has been elected. Therefore, in view of Rule 10, Sub Rule (4)

of the Maharashtra State Co-operative Societies (Election to Committee) Rules, 2014 (herein after referred to as 'the Election Rules, 2014'), the petitioner-society has passed the resolution dated 24.03.2020 and accordingly, it has been submitted in the prescribed format along with all the necessary documents with the respondents for including the name of the petitioner-society as a voter for ensuing the election of respondent No.4 / Bank. However, the name of the representative of the petitioner-society was not included in the primary voter list of respondent No.4 / Bank. The petitioner has filed objection dated 14.01.2021 on the primary voter list. The same has been rejected. Hence, this writ petition.

4. The learned counsel submits that respondent No.3 has failed to consider the mandate of Rule 10(4) of the Election Rules, 2014. The petitioner-society is permitted to change the name of the representative where there is a newly elected committee of the member of the society. However, respondent No.3 has not considered the same and erroneously rejected the objections raised by the petitioner-society.

5. The learned counsel Mr. S. K. Kadam appearing for respondent Nos.2 and 3 submits that after the term of the petitioner-society was expired, Administrator has been appointed on the said society to manage the affairs of the society. The Administrator of the society has submitted the resolution of the general body of the petitioner-society recommending the name of representatives of the petitioner-society. However, the said resolution was not accepted, as it was passed without any coram. Thereafter, the election of the petitioner-society was held on 31.01.2020 and the Chairman and Vice Chairman came to be elected on 13.02.2020. The learned counsel submits that in terms of Rule 10, Sub Rule (4) of the Election Rules, 2014, the name of the representative which has already communicated can be changed only in case of the death of the representative or where there is a newly elected committee of the members of the society. In the instant case, there is no question of changing the name of the representative since in the given time though the name of the representative was recommended by the general body of the petitioner-society during the tenure of the Administrator, however, the said resolution held to be invalid for want of

coram. In view of the same, the provisions of Rule 10(4) are inapplicable.

6. I have also heard the learned AGP for the State and the learned counsel Mr. Deshmukh for respondent No.4 / Bank.

7. It appears that the term of the petitioner-society was expired and the Administrator was appointed to manage the affairs of the society. In the instant case, though the Administrator has submitted the name of the representative along with copy of the resolution passed in a general body meeting of the petitioner-society dated 29.01.2020, however, that resolution is held to be illegal for want of sufficient coram. As per the bye-laws of the petitioner-society pointed out by the learned counsel Mr. Kadam, the resolution passed in the general body meeting is invalid for want of coram. In terms of Sub Rule (4) of Rule 10, the name can be changed only in certain circumstances. The provisions of Rule 10 Sub Rule (4) of the Election Rules, 2014 is reproduced herein below :

“10. Particulars to be included in the provisional list of voters for the societies having society or society and individuals as members.

(1)

(2)

(3)

(4) *A society which has communicated the name of its representative shall, by like resolution, be permitted to change the name of its representative only in case of death of the representative or where there is newly elected committee of the member society not later than five days before the last date for making nominations.”*

8. The learned counsel has taken me through the bye-laws of the petitioner-society. On perusal of bye-laws particularly, Clause No.(24)(2), the Coram in the general body meeting is 2/5th of total members of the general body or 25 members, whichever is less, is the coram for passing the valid resolution. Admittedly, as per the resolution dated 29.01.2020, resolution No.2 is passed by 14 members.

9. In terms of Sub Rule (4) of Rule 10, earlier the name can be changed in the certain circumstances. In the instant case, since the earlier name recommended by the general body under resolution is held to be invalid for want of coram, then the provision of sub rule (4) about the change of the earlier name is inapplicable.

10. In view of the above, I find no error in the order passed by the respondent / Returning Officer. There is no substance in

this Writ petition. Hence, I proceed to pass the following order:

ORDER

Writ Petition is hereby dismissed.

(V. K. JADHAV, J.)

...

vmk/-