

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

WRIT PETITION NO.2083 OF 2021

Sharad Nagari Cooperative Credit
Society Ltd., Aurangabad

Petitioner

Versus

The State Co-operative Election
Authority, Pune & others

Respondents

Mr.V.Y.Deshmukh, advocate for the Petitioner.
Mr.S.K.Kadam, Standing Counsel for Respondents No.1 to 3.
Mr.L.H.Kawale, advocate for Respondent No.4.

CORAM : V.K.JADHAV, J.

RESERVED ON : 03rd February, 2021
PRONOUNCED ON : 18th February, 2021

ORDER :

1 By way of instant petition, the petitioner-Society is challenging the legality, validity and propriety of the order dated 22nd January, 2021, passed by Respondent No.2- Election Officer whereby the objection raised by the petitioner-society for inclusion of its name in the final voters' list for the election of Aurangabad District Central Co-operative Bank Limited, came to be rejected.

2 The learned Counsel for the petitioner submits that Respondent No.2 has issued the notification dated 27th December, 2019 calling for the resolutions of the Member Societies to nominate their representatives and to prepare the provisional voters' list of the Respondent No.4-Bank. In terms of the said notification, the Member Societies were to pass the resolution of representative of the concerned Member Societies and it was to be submitted on or before 31st January, 2020. In view of the same, the petitioner-Society has passed the resolution in the meeting dated 08th January, 2020, nominating name of its representative to participate in the ensuing election of Respondent No.4-Bank. However, the State Government has issued orders on 27th January, 2020 and 31st January, 2020 directing postponement of the elections to District Central Co-operative Banks and V.K.S.S. Societies within the State of Maharashtra for a period of three months. On 29th January, 2020, representative of the petitioner-Society had been to the office of Respondent No.3 to submit the copy of the resolution. However, since the elections were postponed under the orders of the State Government, the office of Respondent No.3 had not accepted the said Resolution submitted by the petitioner-Society, but has made an endorsement to that effect.

3 The learned Counsel for the petitioner submits that so far as the said orders dated 27th January, 2020 and 31st January, 2020, issued by the State Government postponing the elections, came to be challenged before this Court by filing Writ Petition No.3155 of 2020 and by way of interim order dated 24th February, 2020, the Division Bench of this Court, issued a direction to the respondents to continue the process of finalization of voters' list.

4 The learned Counsel for the petitioner submits that Respondents No.2 to 4, however, did not issue any communication to the petitioner for submitting the resolution of the representative. It was incumbent upon them to issue a letter to the petitioner-Society through R.P.A.D. as well as through personal service. The petitioner-society was not aware of the petition filed before this Court and the interim order passed in the said petition.

5 The learned Counsel for the petitioner submits that Respondent No.2 has published the program on 04th January, 2021 in the Daily Newspaper for finalization of voters' list of the Respondent No.4-Bank. As per the said program, the provisional voters' list was published on 04th January, 2021 by the

Respondent No.2 and objections to the provisional voters' list were to be submitted up to 13th January, 2021. The objections were to be heard and decided on 25th January, 2021 and the final voters' list was to be published on 27th January, 2021. However, the petitioner-society has come to know about the said program through some other Society.

6 The learned Counsel for the petitioner submits that the petitioner-Society accordingly submitted an application to Respondent No.2 on 08th January, 2021, requesting therein to include the name of the petitioner society in the voters' list of Respondent No.4-Bank. It has been specifically brought to the notice of Respondent No.2 that the petitioner-Society has already passed Resolution on 8th January, 2020, however, it was not accepted in the office of Respondent No.2 due to the postponement of elections under the orders of the State Government. Even the petitioner-Society has raised objection in that regard. However, without considering the guidelines issued under Circular dated 10th December, 2019, Respondent No.2 illegally rejected the objection/application preferred by the petitioner-society and refused to include petitioner-Society and its representative in the final voters' list for elections to Respondent No.4-Bank.

7 The learned Counsel for the petitioner submits that the guidelines given in the Circular dated 10th December, 2019, have not been considered and no communication has been served upon the petitioner-Society by Respondents No.2 to 4 for calling the Resolution of representative before preparation of provisional voters' list. The learned Counsel for the petitioner submits that the petitioner-Society would remain unrepresented in the ensuing elections to Respondent No.4-Bank.

8 I have heard Mr.S.K.Kadam, Standing Counsel for Respondents No.1 to 3. He has supported the order passed by Respondent No.2.

9 I have also heard Mr.Kawale, learned Counsel for Respondent No.4-Bank for some time.

10 It appears that so far as earlier process of elections to Respondent No.4-Bank is concerned, under the orders of the Government dated 27th January, 2020 and 31st January, 2020, the elections have been postponed. It appears that the Division Bench of this Court, in Writ Petition No.3155 of 2020, while issuing notice to the respondents, has directed the respondents

to proceed further with finalization of voters' list. In view of the said direction, further process of election is commenced from the stage it was stopped.

11 At the outset, it is needless to mention that the Division Bench, by judgment and order dated 11th March, 2020 in bunch of writ petitions, including Writ Petition No.3155 of 2020, quashed and set aside the orders dated 27th January, 2020 and 31st January, 2021, issued by the Government. In the Civil Applications filed by the State Co-operative Election Authority, bearing C.A. (St.) No.10472 of 2020 and connected matters, filed in the above referred bunch of disposed of writ petitions, the Division Bench of this Court by order dated 23rd March, 2020, considering the pandemic situation, in para 8, has observed that the District Co-operative Election Officer, the State Government or such other competent Authority may take decision with regard to the postponement of the election and its process considering the fact and situation and may take such other steps as are permissible and required under the Statute.

12 In terms of the guidelines dated 10th December, 2019, for calling resolutions from the Societies for sending their representative, the communication is required to be made

through R.P.A.D. and if so required, one additional copy of the communication is required to be served on such Society by hand. Furthermore, the paper publication is also required to be given as regards the prescribed dates.

13 In the instant case, I do not find any record that the petitioner-society has been served with the said communication in respect of sending of the resolution recommending name of the representative before the rescheduled date.

14 It has been further pointed out to me during the course of argument that the paper publication was given in Daily Newspaper "Punya Nagari", Aurangabad.

15 I have carefully gone through the said paper publication. It appears that the said paper publication has been published not in a widely circulated Newspaper and furthermore, it is not in the manner, as prescribed in the guidelines dated 10th December, 2019. It also appears that the said paper publication is not on the front side of the newspaper. Undisputedly, the said communication has not been sent to the petitioner-Society by hand.

16 It appears that as per the earlier scheduled program, the petitioner-Society has passed the Resolution of representative and tried to submit it in the office of Respondent No.3. However, said resolution was not accepted since the State Government has postponed the elections for three months. There is an office endorsement to that effect.

17 In view of the same, in my considered opinion, the petitioner-Society would remain unrepresented in the ensuring elections to Respondent No.4-Bank for no fault of it.

18 In view of the same, I proceed to pass the following order:

(i) Writ Petition is hereby allowed in terms of prayer clause "B".

(V.K.JADHAV)
JUDGE

adb