

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2687 OF 2021

MALHARI MARTAND SHELI MENDHI PALAN SAHAKARI
SANSTHA LTD., MAHALJA, TQ. & DIST. NANDED AND
OTHERS

VERSUS

THE DIVISIONAL JOINT REGISTRAR, LATUR
DISTRICT CO-OPERATIVE ELECTION OFFICER, NANDED
AND OTHERS

.....

Advocate for the Petitioners : Mr. P. D. Bachate

Advocate for Respondent Nos. 1 and 2 : Mr. S. K. Kadam

AGP for Respondent No.3 : Mr. K. B. Jadhavar

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CORAM : V. K. JADHAV, J.

DATED : 12TH FEBRUARY, 2021

PER COURT :-

1. By way of the present Writ Petition, the petitioner societies are challenging the legality, validity and propriety of the orders dated 03.02.2021 passed by respondent no.1- Election Officer, thereby rejecting the objections raised by the petitioners for inclusion of names of delegates of the petitioner societies to participate in the election process of respondent no.4 Nanded District Central Co-operative Bank Ltd., Nanded (for short, “respondent no.4 Bank”).

vre/-

2. Learned counsel for the petitioners submits that the petitioners are the co-operative societies registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 (for short, "Act of 1960"). Learned counsel submits that behind the back of the petitioners, respondent no.3-Assistant Registrar (Dairy) has passed the order of liquidation on 30.10.2015. However, liquidator has not taken charge of the petitioner societies. Thus, the Board of Directors/Managing Committee of the petitioner societies was looking after the day to day affairs of the societies. Learned counsel submits that in the general body meeting dated 14.01.2021, the petitioner societies passed resolutions for sending names of their delegates so as to participate in the election process of respondent no.4 Bank and requested the respondent authorities to include their names in the provisional voter list. Learned counsel submits that it was for the first time the respondent authorities informed that on 30.10.2015 the Assistant Registrar has passed the order of liquidation.

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3. Learned counsel for the petitioners further submits that after the knowledge of the order of liquidation, the petitioner societies approached respondent no.3 and pointed out that the petitioner societies are working and they are in existence. After going through the record, respondent no.3, vide order dated 05.01.2021 in case of petitioner nos. 1 and 2 and vide order dated 06.1.2021 in case of petitioner nos. 3 and 4, cancelled the order of liquidation and restored the registration of the petitioner societies. Thereafter, the petitioner societies requested respondent no.1-Election Officer to include names of the delegates of the petitioner societies in the final voter list. The provisional voter list was published on 14.01.2021. The respondent no.1 has not included name of the petitioners in the final voter list. The petitioner societies again passed resolutions on 24.01.2021 for sending names of the delegates and further requested respondent no.1 to include names of the petitioners in the final voter list. It has been pointed out that the final order of liquidation is cancelled and respondent no.4 Bank has also recommended for inclusion of the names of the delegates of

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the petitioner societies in the voter list as per the report filed by the Assistant Registrar on 26.01.2021. Learned counsel submits that however, without considering the same, respondent no.1 has passed the impugned order.

4. Learned counsel Mr. S. K. Kadam, appearing for respondent nos. 1 and 2 has supported the order passed by respondent no.1.

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

6. I have carefully perused the impugned orders. In the impugned orders, respondent no.1 has observed that the societies were under liquidation when the resolutions pertaining to the recommendation of the delegates were passed. Further, the societies have not submitted the resolutions recommending the names of its delegates within time and the same has not been disputed.

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7. In terms of the provisions of Section 102 of the Act of 1960, the Registrar may issue an interim order to the society directing it to be wound up and in terms of the provisions of Section 103(1) of the Act of 1960, after passing an interim order, the Registrar may also appoint a person to be liquidator of the society. In the instant case, the Assistant Registrar, after an appropriate inquiry, has decided not to finally wind up the societies. Even according to the petitioner societies, liquidator has not taken charge of the affairs of the societies at any point of time and the societies were well in existence and the Managing Committees of the societies were looking after the business of the societies. However, only after the final order is passed by the Assistant Registrar cancelling the interim order of winding up, after the stipulated period is over for submission of the resolution for recommending name of delegate, the petitioner societies have submitted the said resolutions. Even the petitioner societies have also not disputed the same.

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8. In view of the above, I find no fault in the impugned orders passed by respondent no.1. There is no substance in the Writ Petition. The Writ Petition is hereby dismissed.

(V. K. JADHAV, J.)