

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

WRIT PETITION NO.2770 OF 2021

KALAMBAR (BU) SEVA SAHAKARI SOCIETY LTD
THROUGH IT'S SECRETARY

VERSUS

STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Hawale Atul B.
AGP for Respondents No.1-State : Mr. S P Deshmukh
Advocate for Respondent 2 : Mr. S K Kadam
Advocate for Respondent 3 : Mr. A M Gaikwad

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CORAM : V.K. JADHAV, J.
Dated : February 10, 2021

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PER COURT :-

1. Being aggrieved by the order dated 3.2.2021 passed by respondent/Election Officer, petitioner has approached this Court by filing present writ petition.

2. Learned counsel appearing for the petitioner-society submits that by passing valid Resolution name of one Padmavatibai Gangadhar Joshi was recommended as a delegate of the petitioner-society to represent the society in the ensuing election of the respondent/bank. In terms of the said recommendations, name of said Padmavatibai was shown as a representative of the petitioner-society in

the provisional voters' list. Meanwhile, said Padmavatibai has requested to the petitioner-society about her inability due to ill-health to participate in the ensuing election. In view of the same, the petitioner-society has moved an application/objection petition to the respondents to accept the alternate name suggested by the petitioner society vide resolution dated 22.1.2021. However, respondent/election authority by order dated 3.2.2021 has rejected the said representation/objection filed by the petitioner/society. Learned counsel further submits that it has been observed while rejecting the objection that in terms of Rule 10 (4) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (for short hereinafter referred to as 'Rules 2014') the same cannot be accepted. Learned counsel for the petitioner submits that said communication about ill-health by delegate Padmavatibai Joshi and subsequent resolution naming the another person i.e. Sou Ritabai Sunilappa Mukkanwar are annexed to the petition.

3. Learned counsel Mr. S K Kadam appearing for respondent/Election Officer has supported the order passed by the election authority by referring the provisions of Rule 10 (4) of the Rules 2014.

4. I have also heard the learned A.G.P. appearing for the Respondent State and the learned counsel Mr. Gaikwad for respondent no.3.

5. In terms of Rule 10 (4) of the Rules 2014, 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 a newly elected committee of the member Society not later than five days before the last date for making nominations.

Rule 10(4) of the Rules 2014 which is relevant for the present discussion 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)

aaa/-

- (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.

6. In view of the above unambiguous provision, merely on the basis of the communication about ill-health and, even otherwise, name of the representative cannot be changed except under two circumstances as prescribed in Rule 10 sub-rule (4) of the Rules of 2014. In view of the same, I find no fault in the impugned order. There is no substance in the writ petition. Hence, following order.

ORDER

Writ Petition is hereby dismissed.

**(V. K. JADHAV)
JUDGE.**

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aaa/-

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