

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2781 OF 2021

Penur Seva Sahakari Society Ltd.

...Petitioner

versus

The State of Maharashtra and others

...Respondents

.....
Mr. V. P. Sawant, advocate for the petitioner
Mr. S. P. Deshmukh, A.G.P. for respondent No.1.
Mr. V. H. Dighe, advocate for respondent No. 2
Mr. A. M. Gaikwad, advocate for respondent No.3
None for respondent No.4 though served
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CORAM : V. K. JADHAV, J.
DATED: 17th FEBRUARY, 2021

PER COURT :-

1. By consent, heard finally at admission stage.
2. By way of this writ petition, the petitioner is challenging the order dated 03.02.2021 passed by respondent No.2 thereby allowing the objection raised by respondent No.4.
3. Learned counsel for the petitioner submits that the term of the committee of the petitioner society has come to an end. By order dated 07.04.2018 the Board of Administrator was appointed on the petitioner society. Meanwhile, respondent No.2 has called upon the member societies to propose the name of their representatives to

participate in the elections. Learned counsel submits that the Board of Administrator has called special meeting of the Board of Administrator on 9.1.2020 and in the said meeting, the Board of administrator has proposed the name of one Balaji Babarao Gavate as representative of the petitioner society to participate in the election of respondent bank. Learned counsel submits that thereafter, the elections of the petitioner society were declared in the month of March, 2020 and the said elections took place on 5.3.2020. Learned counsel submits that after the elections of the Chairman, Vice Chairman and office bearers took place on 21.9.2020, the petitioner society has called the special meeting for sending the name of representative afresh in view of the subsequent elections. The notice for calling special meeting came to be issued on 16.1.2021. The special meeting was held on 24.1.2021. Accordingly, the resolution was passed proposing and confirming the name of same representative i.e. Balaji Babarao Gavate. On 26.1.2021, the petitioner society has forwarded the said resolution, however, out of political motive, respondent No.4 has raised objection before respondent No.2 Election Authority on 25.1.2021. Respondent No.4 has raised objection that name of Balaji Babarao Gavate was proposed and forwarded by the Board of administrator and not by the general body.

4. Learned counsel for the petitioner submits that in terms of the provisions of Rule 10(4) of the Maharashtra Co-operative Societies

(Election to Committee) Rules 2014, the newly elected committee of the member society not later than five days before the last date for making the nominations shall communicate the name of its representative.

5. I have also heard Mr. Dighe, learned counsel for respondent Nos. 2, who supported the impugned order. I have also heard Mr. S. P. Deshmukh, learned A.G.P. for respondent No. 1 and Mr. A.M. Gaikwad, learned counsel for respondent No.3 Bank. Though respondent No.4 original objector is duly served none appears for him.

6. Even as per the guidelines dated 18.12.2019 issued by the District Co-operative Election Officer and in terms of the provisions of Section 27(10) r.w. Section 73CA (1) (i) (f) of the Maharashtra Co-operative Societies Act, 1960, the societies are required to submit their resolutions nominating its delegate. In clause (2) of the said guidelines, it has been specifically mentioned that the said resolution is to be passed by the managing committee of the society or general body of the society.

7. In the instant case, the Board of Administrator has called a meeting and passed resolution recommending the name of said Balaji Babarao Gavate as representative of the petitioner society. Since the term of the managing committee was over, the managing

committee was not in existence to pass appropriate resolution recommending the name of delegate and in view of the same, the resolution should have been passed in the general body meeting, however, the board of administrator has passed the said resolution which is not proper, correct and legal.

8. So far as the provisions of Rule 10 (4) of Rules of 2014 are concerned, the said provisions stands attracted in case of change in the name of said delegate in two contingencies only, as explained in Rule 10 (4) of the Rules 2014. In the instant case, the Board of Administrator has no authority to recommend the name of delegate of the petitioner society. In view of the same, the provisions of Rule 10(4) of the Rules 2014 are inapplicable, since no resolution was submitted on earlier occasion. In view of the same, I find no error in the order passed by the respondent Election Officer. There is no substance in the writ petition. Writ petition is liable to be dismissed. Hence, I proceed to pass the following order:-

O R D E R

Writ petition is hereby dismissed.

(V. K. JADHAV, J.)