

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 WRIT PETITION NO. 3360 OF 2021

SARITA BRAMHANAND SIRSAT AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Panditrao S. Anerao
AGP for Respondent Nos. 1 and 4 : Mr. K. B. Jadhavar
Advocate for Respondent No.2 : Mr. S. K. Kadam
Advocate for Respondent No.3 : Mr. R. K. Ingole

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CORAM : V. K. JADHAV, J.
DATED : 22ND FEBRUARY, 2021

PER COURT :-

1. By way of the present Writ Petition, the petitioners are challenging the legality, validity and propriety of the order dated 03.02.2021 passed by respondent no.2-Election Officer, thereby rejecting the objection raised by the petitioners for inclusion of name of petitioner no.1 as a delegate of petitioner no.2 society to participate in the election process of respondent no.3 Nanded District Central Co-operative Bank Ltd., Nanded (for short, “respondent no.3 Bank”).

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2. Learned counsel for the petitioners submits that petitioner no.2 is a co-operative society registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 (for short, "Act of 1960") and the Rules thereunder. As the elections of petitioner societies were not held, the Administrator was appointed who was looking after the day to day affairs of the petitioner society. The Administrator has not taken effective steps for holding general body meeting for sending the name of delegates so as to participate in the election of respondent no.3 Bank. Learned counsel submits that later on elections of the petitioner society were held and the elected body has taken over the charge w.e.f. 05.03.2020.

3. Learned counsel further submits that the provisional voter list was published on 14.01.2021. In the general body meeting dated 20.01.2021, the petitioner society passed resolution for sending name of petitioner no.1 as the delegate so as to participate in the election process of respondent no.3 Bank and requested the respondent

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authorities vide application dated 20.01.2021 to include the name of petitioner no.1 in the provisional voter list. Learned counsel submits that, however, respondent no.2 has rejected the said application by the impugned order.

4. Learned counsel Mr. S. K. Kadam, appearing for respondent no. 2-Election Officer submits that though earlier the Administrator was looking after the day to day affairs of the petitioner society, however, the elected body has taken over the charge w.e.f. 05.03.2020. The petitioner society could have forwarded its resolution recommending name of its delegate to participate in the election of respondent no. 3 Bank within time since the last date for submission of such resolution was 18.03.2020. However, petitioner society has submitted the resolution late i.e. on 20.01.2021. There is delay of more than 10 months. Learned counsel submits that as per Rule 10 (4) of the Maharashtra State Co-operative Societies (Election to Committee) Rules, 2014 (for short, "Rules 2014"), a society which has already communicated the name of its representative shall be permitted to change

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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.

5. I have also heard learned AGP for the respondent-State and learned counsel Mr. Ingole for respondent no.3 Bank.

6. Rule 10(4) of the Rules 2014, which is relevant for the present discussion, is reproduced below:

“10(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.”

7. In the instant case, the petitioner society has communicated the name of its representative for the first time on 20.01.2021, i.e. late by 10 months, since the last

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date for such communication was 18.03.2020. I have carefully perused the impugned order. In the impugned order, respondent no.2 has observed that the society has not submitted the resolution recommending the names of its delegates within time and the request made belatedly is contrary to the provisions of Rule 10(4) of the Rules 2014.

8. In view of the above, I find no fault in the impugned order passed by respondent no.2. There is no substance in the Writ Petition. The Writ Petition is hereby dismissed.

(V. K. JADHAV, J.)

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