

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

907. WRIT PETITION NO. 4211 OF 2021

Ravindra S/o Uttamrao Dalavi,
age 50 years occupation agriculture & business
R/o 'Manohar', near Old City Police Station,
Kabad Galli, Beed Tal. & Dist. Beed ...Petitioner

VERSUS

1. The State of Maharashtra
Through : The Secretary,
Co-operation & Textile Department,
Maharashtra State, Mantralaya, Mumbai – 31
2. The State Co-operative Election Authority,
Maharashtra State, Pune,
Old Central Building, Ground Floor, Pune 411 003
3. The District Deputy Registrar,
Co-operative Societies and
District Co-operative Election Officer,
Sahakar Shakti Building, Jalna road, Beed
4. The Returning Officer for Election of
the Beed District Central Co-operative Bank Ltd., Beed.
5. The District Special Auditor,
Co-operative Societies, ADF,
Beed Dist. Beed
6. The Assistant Registrar,
Co-operative Societies (Dairy), Beed Dist. Beed
7. The Assistant Registrar,
Co-operative Societies,
Wadvani Tal. Wadvani Dist. Beed
8. Yashwant Kondiba Khandagale
age 42 years occupation agriculture
R/o Shiral Tal. Ashti Dist. Beed

9. Dilip S/o Dnyandeo Bhosale,
age 46 years occup. agriculture
R/o Santh Kabir Nagar, near new Saraswati
Vidyalaya, Tal. And Dist. Beed.
10. Varsha Satish Ujagare,
age 21 years occup. household & agriculture
R/o Wadvani Tal. Wadwani Dist. Beed
11. Parmeshwar S/o Nagorao Ujagare,
age 50 years occup. agriculture
R/o Wadvani Tal. Wadwani Dist. Beed

...Respondents

Mr. D.S. Bagul, Adv., h/f. Mr. N.V. Gaware, Adv. for petitioner
Mr. S.B. Pulkundwar, Asstt. Govt. Pleader for Respt. No.1
Mr. V.H. Dighe, Advocate for respondents No.2 to 4
Mr. C.S. Kulkarni, Advocate for respondent No.8
Mr. G.K. Thigle-Naik, Advocate for respondent No.9

CORAM : N.J. JAMADAR, J.

DATE : 10th March, 2021

ORAL JUDGMENT :

1. Heard.
2. Rule. Rule made returnable forthwith and heard finally with the consent of the Counsels for the parties.
3. Challenge in this petition is to to the order dated 24th February 2021 passed by respondent No.4-Returning Officer, whereby objections raised by the petitioner to the nomination of respondents No. 8 to 11 came to be rejected.

4. The petition arises in the backdrop of the following facts:

The petitioner had submitted nomination for election to the committee of the Beed District Central Co-operative Bank Ltd., Beed, a Federal Society, from the Scheduled Castes and Scheduled Tribes constituency. By the impugned communication dated 24th February 2021, the petitioner was informed that his nomination form was accepted and alongwith him the nomination forms of respondents No. 8 to 11 were also accepted. It was further informed that the objection to the nomination of respondents No.8 to 11 was received by the Returning Officer after the time prescribed for scrutiny of nomination forms and the decision having been taken thereon.

5. The petitioner asserts that he has filed the objection on 23rd February 2021 itself and yet the objections were not considered by the Returning Officer in breach of the duty cast under Rule 25 of the Election to the Committee Rules, 2014. The petitioner has placed on record certain documents to demonstrate that the claim of respondents No. 8 to 11 about eligibility is not sustainable.

6. Since the objection came to be rejected on the count that it was not lodged by the petitioner before the scrutiny and decision by the Returning Officer, respondent No.4 was directed to

file an affidavit. In para 7 of the affidavit, a categorical statement is made by respondent No.4 that the objection was received on 24th February 2021, after publication of list of candidates, whose nominations were accepted. The deponent has asserted that the objection was filed on 24th February 2021.

7. The learned Counsel for the respondents drew attention of the Court to the averment in the petition in paragraph No. 17 that the petitioner has submitted his objection of 24th February 2021. The learned Counsel for the petitioner attempted to explain away the said assertion on the ground that it was a typographical mistake.

8. In the face of the aforesaid material on the record, especially, the statement made by the Returning Officer that the objection was received on 24th February 2021 after declaration of valid nominations, it would be rather difficult to accede to the submission on behalf of the petitioner.

9. The learned Counsel for the petitioner invited attention of the Court to the order passed by the Returning Officer on the nomination form of Mr. Yashwant Kondiba Khandagale – respondent No.8, which indicates that initial endorsement of ‘rejection’ was later-on corrected to indicate that the nomination form was

accepted. The said fact is also endeavoured to be explained in the affidavit of Vishwas Raghupatrao Deshmukh on behalf of respondent No.4.

10. In any event, the question as to whether the documents, which were relied upon by respondents No. 8 to 11 in support of their claim of eligibility were false and fabricated, and, thus, could not have been taken into account, cannot be legitimately inquired into in exercise of Writ Jurisdiction and, especially, at this stage.

11. The issues sought to be agitated by the petitioners, warrant determination on facts. Consequently, in view of well established legal position, the petitioner can very well agitate the factual questions in an election petition, in case any of the respondents is elected and the petitioner is aggrieved by the said election. Therefore, at this stage, no interference is warranted in the impugned order.

12. The petition accordingly stands dismissed.

(N.J. JAMADAR)
JUDGE

Madkar