

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

909 WRIT PETITION NO. 4512 OF 2021

Devirath Shivram Sanap,
Age-33 years, Occu-Agri,
R/o. Aadarsha Nagar Wadwani,
Tq. Wadwani, Dist. Beed

...PETITIONER

VERSUS

1. The Divisional Joint Registrar,
Co-operative Societies, Latur
2. The Returning Officer,
Beed District Central Co-op.
Bank Ltd, Beed
3. The Managing Director
Beed District Central
Co-op. Bank Ltd, Beed

...RESPONDENTS

Mr. Kamlakar J. Suryawanshi, Advocate for the petitioner
Mr. R. D. Sanap, Advocate for respondent No.1/State
Mr. V. H. Dighe, Advocate for respondent No.2
Mr. D. J. Choudhari, Advocate for respondent No.3

CORAM : N. J. JAMADAR, J.

DATE : 11-03-2021

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1. Rule. Rule made returnable forthwith. Having regard to the nature of the controversy raised in the petition, with the

consent of the counsels for the parties, heard finally at the stage of admission.

2. Heard Shri Kamlakar J. Suryawanshi, learned counsel for the petitioner, Shri S. B. Pulkundwar, AGP for the respondent No. 1/State, Shri V. H. Dighe, learned counsel for respondent No. 2 and Shri D. J. Choudhari, Advocate for the respondent No.3

3. The challenge in this petition is to the rejection of nomination from de-notified tribes (Vimukt Jati), Nomadic Tribes constituency for election to the Committee of Beed District Central Co-Operative Bank Ltd., Beed- respondent No. 3. The nomination of the petitioner came to be rejected by respondent No. 2-the Returning Officer on the ground that the petitioner did not submit document to substantiate his claim of eligibility under Section 73B (3) of the Maharashtra Co-Operative Societies Act, 1960 (the 'Act'). The appellate authority did not find any infirmity in the order passed by the Returning Officer and, thus, dismissed the appeal. Hence the petitioner has invoked the writ jurisdiction of this Court.

4. A two-pronged submission was canvassed on behalf of the petitioner. One, the authorities were not justified in rejecting the nomination on the count that the petitioner did not fulfill the eligibility criterion under Section 73B (3) of the Act for the non production of copy of the notification issued by the Registrar constituting the Committee of Society which the petitioner represents. Two under Section 73B (3) of the Act, there is no requirement that a reserved category candidate should be a member of the Committee of the Society.

5. Evidently, the petitioner had not produced the notification constituting the Committee of the Society which he claims to represent. Indisputably, the constitution of the Committee of the society is evidenced by a notification issued by the Assistant Registrar. In this backdrop, the insistence of the authorities to place on record a copy of the notification constituting the Committee cannot be said to be unreasonable. To rule out the possibility of challenge to the status of a candidate on the count that the candidate is not a member of the Committee, the reluctance of the authorities to place reliance on the documents

certified by the Office Bearers of the Society cannot be faulted at.

6. Section **73B of the Act, 1960** reads as under :

"73B. [Reservation of certain seats on committees of societies and election thereto.] -

(1) Notwithstanding anything contained in this Act or in the rules made thereunder or any bye-laws of any society, on the committee of such society or class of societies as the State Government may, by general or special order, direct, [three seats] shall be reserved.-

(a) one for the members belonging to the Scheduled Castes or Scheduled Tribes; [***]

[(a-i) one for the members belonging to the Other Backward Classes [and];

(a-ii) one for the members belonging to the De-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes; [* * *];

(2) [* * *].

(3) Any individual member of the society, or any elected member of the committee of a member-society, or any member of the committee of a member-society, whether elected, co-opted or appointed under this section, belonging to the Scheduled Castes or Scheduled Tribes, [or Other Backward Classes or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Special Backward Classes,] [* * *], shall be eligible to contest the election to a reserved seat and every person who is entitled to vote at the election to the committee shall be entitled to vote at the election to any such reserved seat.

[(4) Where no person is elected to any of the three reserved seats, then such seat or seats shall be filled in by nomination from amongst the persons entitled to contest the election under sub section (3).]

Explanation. - For the purposes of this section,-

(a) a general or special order, if any, issued by the State Government under section 73-B as it existed before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1983 shall be deemed to have been issued under sub-section (1) of this section and shall continue to be in force until duly repealed or amended;

(b) the expression "*Scheduled Castes*" includes "Nav-Boudhas",

[(b-1) the expression "*Other Backward Classes, De-notified Tribes (Vimukta Jatis) and Nomadic Tribes and Special backward Classes*" means such classes or parts of or groups within such classes as are declared, from time to time, by the State government to be Other Backward Classes, De-notified Tribes (Vimukta Jatis) and Nomadic Tribes and Special backward Classes;]

7. From a bare reading of Sub Section (3) of Section 73B of the Act it becomes evident that three classes of members are eligible to contest election to reserved seat, namely

- i) any individual member of the society or
- ii) any elected member of the Committee of any member

Society or

- iii) Any member of the Committee of a member society, whether elected, co-opted or appointed under this section, belonging to reserved category.

8. If a candidate seeks eligibility on the ground that he is a member of the Committee of a member society (Clause (ii) above), it is incumbent upon him to substantiate the said claim. The first part of Sub Section 3, (clause (i) above) confers eligibility only on individual member of the society for the Committee of which elections are being held. It does not imply that any individual member of reserved category of any society is eligible to contest election to the federal society to which such society is affiliated.

9. Thus, in my considered view, the returning officer and the appellate authority have not committed any error in rejecting the nomination of the petitioner.

10. The upshot of aforesaid consideration is that the Returning Officer and the appellate authority were justified in rejecting the nomination of the petitioner for failure to satisfy the

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eligibility criteria. Hence, the petition deserves to be dismissed.

Thus, the following order.

ORDER

- i. The petition stands dismissed.
- ii. No costs.
- iii. Rule discharged.

[N. J. JAMADAR, J.]

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