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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8018 of 2021

Raju Kashinath Salunkhe	...Petitioner
<i>Versus</i>	
The State of Maharashtra and Others	...Respondents

Mr Samir Kumbhakoni, *for the Appellant.*
Mr R P Kadam, *AGP for the Respondent-State.*
Mr Kirti J Hakani, *with Ms Niyati Hakani for Respondent Nos 2, 4.*

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 30th November 2021

PC:-

1. The Petitioner was admittedly a rival of the 4th Respondent in the elections to the 2nd Respondent, a Multi State Co-operative Society.

2. The prayer in the Petition under Article 226 of the Constitution of India is to direct Respondent Nos 1 to 3 to take action against Respondent No 4 on the basis that he has become a defaulter under the Multi Co-operative Societies Act, 2002 and consequently, to remove him from the Board of Respondent No 2.

3. These are admittedly annexed to the Petition, three recovery certificates under section 101 of the Maharashtra Co-operative Societies Act, 1960. These are not issued under Multi State Co-operative Societies Act, 2002. Section 29(d) of Multi State Co-operative Societies Act, 2002 disqualifies a person from being eligible to be a member of a Multi State Co-operative Society if inter alia he has made any default in payment of any amount to be paid to the Multi State Co-operative Society under the bye-laws of such society. Section 43(1)(h) says that no member of the Multi State Co-operative Society is eligible to be chosen as a member of the board of such a society if that person is one against whom any amount due under a decree, decision or order is “pending recovery under *this* Act”.

4. Mr Hakani for Respondent Nos 2 and 4 is correct in saying that disqualification under Section 43 is not for a general pendency of recovery under any Act but only where recovery proceedings are pending under the Multi State Co-operative Societies Act (not under *any* Act).

5. There are no such pending recovery proceedings in respect of any decree, decision or order against the 4th Respondent under the Multi State Co-operative Societies Act.

6. In our view, the Petition is thoroughly misconceived. It is rejected. There will be no order as to costs.

7. All concerned will act on production of a digitally signed copy of this order.

(Madhav J. Jamdar, J)

(G. S. Patel, J)