

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4408 OF 2022

BUVAJI BAGAJI KHEMNAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Ms. Pradnya Talekar
AGP for Respondent - State : Mr. P.N. Kutti
Advocate for Respondent Nos. 2 to 4 : Mr. S.K. Kadam
Advocate for Respondent No. 5 : Mr. Y.R. Neb h/f.
Mr. V.R. Dhorde

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[CORAM : NITIN B. SURYAWANSHI, J.]
DATE : 20th April, 2022

ORDER :

. The petitioner objected to the nomination of respondent No.5 on the ground that, his father was defaulter of a Co-operative Credit Society and after the death of his father, the petitioner is liable to repay the debt of his father being his legal heir.

2. The said objection is rejected by the returning officer - respondent No.4, on the ground that, the respondent No.5 is not a member of the said Co-operative Credit Society from which his father had taken loan and there is nothing on

record to show that respondent No.5 is a defaulter of any society.

3. The election program is in progress and voting is due on 24.04.2022. This petition raises several disputed questions of facts, which cannot be gone into in extraordinary writ jurisdiction of this Court, at this stage.

4. The learned advocate for the petitioner placed reliance on ***Dalsing Shamsing Rajput v. State of Maharashtra and others, 2006(3) Mh.L.J. 592*** and ***Nagindas Madhavlal Sandesaka v. Kodidas Mangaldas, 1958 SCC OnLine Bom 92 : (1958) 60 Bom LR 1226***.

5. In *Dalsing Rajput (supra)* Division Bench of this Court held that, the High Court can issue a writ against the Co-operative Society and the election petition in case of ineligible candidate cannot be said to be an efficacious remedy. The court can prevent the ineligible candidate from contesting election without disturbing the election program.

6. In *Nagindas Sandesaka (supra)* the Division Bench of this Court has, after considering the earlier rulings, held

that, it is pious obligation of the son to pay the debts of his father incurred by him on account of trade liabilities out of ancestral property.

7. In the facts of the present case, this Court is of the considered view that, the disputed questions of facts cannot be considered in a writ petition. The petitioner has alternate remedy in view of decision of the Division Bench of this Court at Principal Seat in Writ Petition No. 5878 of 2021 (*Dattatray Genaba Lole and Others v. The Divisional Joint Registrar Co-operative Societies, Pune and Others*).

8. In the light of that, writ petition is dismissed with liberty to the petitioner to avail alternate remedy.

9. All the contentions of the petitioner are kept open.

**[NITIN B. SURYAWANSHI]
JUDGE**