

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8028 OF 2022

Bhausahab Shivaji Shirsath ..Petitioner
Versus
The State of Maharashtra and Ors. ..Respondents

**WITH
WRIT PETITION NO.8027 OF 2022**

Sanjay Pandurang Chavan ..Petitioner
Versus
The State of Maharashtra and Ors. ..Respondents

Mr. Anilkumar K. Patil & Sonal Rajput, for the Petitioner in both Petitions.

Mr. C. D. Mali, AGP for Respondent Nos.1 & 5 in both Petitions.

Mr. Deelip Patil Bankar - Chief Standing Counsel - SCEA a/w Suhas Rohile, for Respondent No.2.

Mr. Anil Patil - Asst. Returning Officer - present.

CORAM : NITIN W. SAMBRE, J.

DATE : 7th JULY, 2022

P.C.

1. Both these petitions are directed against the impugned order of rejection of nomination of the petitioners. Relying on the provisions of Section 73AAA of the Maharashtra Co-operative Societies Act, Mr. Anilkumar Patil counsel appearing for the petitioner would claim that provisions of bye-law providing minimum left over service of five years on the date of election goes contrary to the

said statutory provisions. According to him, even if bye-laws are relied on, they are yet to take shape of subordinate legislature for want of approval by the competent authority under the Co-operative Societies Act.

2. Counsel for the respondent authority opposed the prayer on the ground that the bye-law has to be read as it is and cannot be substituted or its validity cannot be decided at this stage of the proceedings.

3. I have appreciated the said submissions.

4. Having regard to the fact that election programme has considerably advanced and at this stage any indulgence will amount to causing interference in the election process, in my opinion, no case for interference in extraordinary jurisdiction is made out. As such, both these petition stands dismissed.

5. However, as prayed by Mr. Anilkumar Patil liberty is granted to the petitioner to take out appropriate proceedings in the form of election dispute.

6. Needless to clarify that all the contentions raised herein are kept open.

[NITIN W. SAMBRE, J.]