

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

WRIT PETITION NO. 10107 OF 2022

Mr.Mubin Usman Pathan

..Petitioner

v/s.

The State of Maharashtra,
Thr. The Principal Secretary
Ministry for Co-operation, Nashik
& Ors.

..Respondents

Mr. Mufeez Ansari i/b. Jayendra Khairnar for the Petitioner/s.
Mr. Deelip Patil Bankar, Chief Standing Counsel , SCEA a/w. Pooja
Deelip Patil for the Respondent Nos.3 and 5.
Mr. R.D.Motkari for the Respondent No.4.
Mr. C.D.Mali, AGP for the State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 11th NOVEMBER, 2022.**

P.C.

1. The Petitioner has filed this writ petition to quash and set aside order dated 25.7.2022 passed by Respondent No. 2 and to accept the nomination form in Appeal No. 42 of 2022.

2. The Petitioner is a member of the Respondent No.4 Co-operative Bank. The notice for election of members of Managing Committee of the Respondent No.4 Bank for the period from 2022 to 2027 was published on 5.7.2022. The Petitioner filed his nomination form for the post of Director. The Respondent No.3 scrutinized the nomination

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forms and conducted hearing, and on 14.7.2022 rejected the nomination form of the Petitioner. The Petitioner challenged rejection of nomination by filing an appeal before the Respondent No.2. The appeal came to be rejected on 25.7.2022. Being aggrieved by the said order, the Petitioner invoked the writ jurisdiction of this Court under Article 227 of the Constitution of India.

3. It is submitted on behalf of Respondent No.3-Returning Officer that the candidates in general constituency have already declared elected unopposed. Similarly, the candidate in VJNT and Spl. Backward Class Constituency has also been declared unopposed. As far as the Other Backward Class Constituency, Women constituency and SC & ST Constituency are concerned, the symbols have been allotted and election is scheduled on 13.11.2022.

4. It is thus evident that the election process is in advance stage and entertaining the Petition at this stage will result in stalling the election. Furthermore, the nomination of the Petitioner has been rejected for not meeting the requirements of having fixed deposit of Rs.1,00,000/- for the previous financial year as required by the bye law No.40 of the concerned society. The Petitioner has stated that his nomination has been rejected despite having fixed deposit of Rs.1,00,000/-. While justifying rejection of nomination Ms. Prerana Shivdas, the Returning

Officer/ Election Officer (Respondent No.3) has stated that the cut off date for deposit was 31.03.2022 and that deposit after the cutoff date does not cure the defect.

5. Suffice it to say that disputed question of facts relating to deposit and the date of deposit cannot be decided in writ jurisdiction. As held by the Division Bench of this Court in ***Pandurang Laxman Kadam & Ors. Vs. State of Maharashtra & Ors. 2016 (6) Bom. C.R.75*** Petitioner has alternative and efficacious remedy of an election dispute and all these issues can be raised in the election petition.

6. In the circumstances, without expressing any opinion on the merits of the controversy and factual issues related thereto, the Petition is dismissed. The Petitioner is at liberty to take recourse to the alternate remedy of an election dispute.

(ANUJA PRABHUDESSAI, J.)