

Anand

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

WRIT PETITION NO. 7977 OF 2021

Sadashiv Mahadev Takalkar

.Petitioner

Vs.

The State of Maharashtra & ors.

.Respondents

Mr. Vaibhav V. Ugle, Advocate, for the Petitioner

Mrs. M. P. Thakur, AGP, for the Respondent Nos. 1 to 3 – State

Mr. Kirit J. Hakani, Advocate, for the Respondent No. 4

Ms Niyati M. Hakani, Advocate, for the Respondent No. 5

**CORAM : S. V. GANGAPURWALA AND
S. G. CHAPALGAONKAR, JJ.**

DATE : 2 DECEMBER 2022

P. C.

. Learned counsel for the Petitioner submits that for co-option, a person has to be eligible for being elected as a Member. In the present case, the Respondent did not possess valid license for more than two years so also not paid taxes and license fees, as required. Learned counsel submits that he is harping on the word “person eligible” as appearing in Section 18 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. Learned counsel submits that Section 13(1)(b) will have to be read with Section 18 of the Act, 1963. It is further submitted that as Respondent

No. 5 who was co-opted, did not satisfy this criteria, the Respondent No. 5 was ineligible to be co-opted as a Member.

2. An Affidavit is also filed by the Respondent No. 5 in which it is stated that license is issued in the name of the Respondent No. 5 on 20.08.2019. On 08.09.2021, Market Committee co-opted Respondent No. 5 as eligible to represent the Trader's Constituency.

3. As far as other grounds are concerned, we do not find any pleading. However, even upon query of provision disqualifying such person, no such provision is referred to by the Petitioner. It is not pointed out as to how the Respondent No. 5 could be dis-qualified from being co-opted.

4. It is also contended by the Respondent No. 5 that the license fee has been paid and the same has been re-newed from time to time.

5. In writ jurisdiction, it will not be possible to enter into the disputed question of the fact.

6. In the light of the above, Writ Petition is disposed of.

(S. G. Chapalgaonkar, J.)

(S. V. Gangapurwala, J.)