

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 1435 of 2022

- (1) Shri Keshav Premal Chindhalore,
Aged : Major
Director and President,
R/o Near New Bus Stop Saibaba
Hotel, Tumsar, Tah Tumsar,
District : Bhandara.
- (2) Shri Vijay Vasant Rao Hatwar,
Aged : Major
Director, R/o Govardhan Nagar,
Dewhad Road, Tumsar, Tah. Tumsar,
District : Bhandara.
- (3) Shri Nepalchandra Kisanrao Bharnekar,
Aged : Major,
R/o Ambedkar Nagar, Tumsar,
Tahsil Tumsar, District : Bhandara.
- (4) Shri Suresh Natthu Harde,
Aged : Major
R/o Azad Nagar, Tumsar,
Tah. Tumsar, District : Bhandara.
- (5) Shri Anand Hemraj Shivarkar,
Aged : Major
R/o Azad Nagar, Tumsar,
Tah. Tumsar, District : Bhandara.
- (6) Shri Baban Kanhu Padole,
R/o Shioni,
Tah. Tumsar, District : Bhandara.
- (7) Shri Sudhakar Narayan Chopakar,
Aged : Major
R/o Warthi, Tah. Mohadi
District : Bhandara.

- (8) Shri Chandarakant Govindarao
Mallewar,
Aged : Major
R/o Hanuman Nagar, Tumsar,
Tahsil : Tumsar, District : Bhandara.
- (9) Sau. Kavita Suryakant Badwaik,
Aged : Major
R/o Gandhi Nagar, Tumsar,
Tah. Tumsar, District : Bhandara.
- (10) Shri Sunil Tarachand Manapure,
Aged : Major
R/o Khat Road, Bhayyaji Nagar,
Bhandara, Tahsil and District : Bhandara.
- (11) Jankalyan Nagri Sahakari Pat
Sanstha Ltd. Tumsar,
Through its Manager,
R/o At Rajendra Nagar,
Tumsar, Tah. Tumsar,
District : Bhandara.

... Petitioners

... Versus ...

- (1) State of Maharashtra,
Department of Co-operation,
Marketing and Textil Division,
having its office at Hutatma
Rajguru Marg, Madam Kama Marg,
Extension Building, Mantralaya,
Mumbai, through its Hon'ble
Minister of State.
- (2) State of Maharashtra,
Through Divisional Joint Registrar,
Co-operative Societies, Nagpur
Division, Nagpur.

(3) State of Maharashtra,
Through District Deputy Registrar,
Co-operative Societies, Bhandara,
Tahsil and District : Bhandara.

(4) Smt. Sindhutai Janardhan
Chindhalore,
Aged : Major, Occ : Not Known,
Ex. President, Jankayan Sahakari
Nagri Pat Sanstha Limited, Tumsar,
R/o Tumsar, District : Bhandara.

... Respondents

Mr. S. K. Tambde with Mr. A. M. Ghare, Advocates for the petitioners
Ms. T. H. Khan, A. G. P. for the State/respondents 1 to 3
Mr. R. M. Bhangde with Mr. K. S. Motwani, Advocates for respondent 4

CORAM : ROHIT B. DEO, J.

DATED : 12-4-2022

ORAL JUDGMENT

Rule. Rule made returnable forthwith. With consent, the petition is finally heard.

2. The challenge is to the order dated 24-2-2022 rendered by the Hon'ble Minister whereby the disqualification of respondent 4 herein, who is the elected president of the society, is set aside.

3. While learned counsel for respondent 4, Mr. R. M. Bhangde would submit that the orders which are set aside by the Hon'ble Minister are patently illegal and without jurisdiction, I am not inclined to consider the rival submissions on merit, since I find that the Hon'ble

Minister has proceeded on a factually incorrect assumption that the counsel for the petitioner was present and did not file on record written arguments.

4. By now, it is common ground, that the counsel was not present. As a fact, there was no vakalatnama filed. Mr. R. M. Bhangde would submit that the reference to counsel is an inadvertent error and presumably, the Hon'ble Minister is referring to the representative of the petitioner, who was present and who did not prefer an appropriate application seeking time to engage counsel or then to file submissions etc.

5. It would not be possible for this Court to speculate on what weighed with the Hon'ble Minister. However, considering that certain important issues are involved, it would be appropriate to quash the order of the Hon'ble Minister and to remit the matter.

6. At the same time, the apprehension expressed by respondent 4 that the election process may begin and respondent 4 may not be permitted to participate in the election, shall have to be addressed.

7. The interest of all the stakeholders can be safeguarded by directing the Hon'ble Minister to decide the revision within fifteen days from the date of appearance of the parties.

8. The parties shall appear before the Hon'ble Minister, without expecting any separate formal notice, on 25-4-2022.

9. The society shall produce in the revision the relevant record in original including the disputed resolution dated 20-8-2020 so that the hearing can be concluded within the time frame stipulated.

10. This Court expects that the situation shall not be precipitated by filling up vacancy caused by the disqualification of respondent 4. If during the pendency of the revision, there is any occasion for respondent 4 to seek further or appropriate order/direction in view of the declaration of election etc., such liberty is reserved.

11. The petition is disposed of in the aforestated terms.

JUDGE

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Digitally signed by AVINASH
YUVRAJ WASNIK
Signing Date: 18.04.2022 18:21