

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

WRIT PETITION NO.2217 OF 2022

(Abhay Madhukar Kambe Vs. District Co-operative Election Officer / District Deputy Registrar, Amravati and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. N. A. Gawande, Advocate for Petitioner.
Mr. S. M. Ukey, Addl. GP for Respondents 1 & 2/State.

CORAM: ROHIT B. DEO, J.

DATE: 25th APRIL, 2022.

The election programme of the Seva Sahakari Society, which is not a party to the petition, is declared and the voting is scheduled on 15.05.2022. The list of validly nominated candidate is already published on 20.04.2022.

2. According to the petitioner, respondent 3 filed nomination although he was not eligible to contest the election in view of the provisions of Section 73CA (1)(vii) of the Maharashtra Co-operative Societies Act, 1960. The specific contention is that he has not availed the loan facility from the Society. The petitioner preferred objection to the nomination form which the Returning Officer rejected vide order dated 20.04.2022 on the premise that the objection is absolutely unsubstantiated.

3. I am not inclined to entertain this petition for reasons more than one.

4. In the first place, I see no error whatsoever in the order impugned. The objection was indeed unsubstantiated and the Returning Officer had no option but to reject the same. The other aspect is that in view of the settled position of law, and a reference may be made to the relatively recent decision of the Division Bench in ***Dattatray Ganaba Lole and Ors. v. Divisional Joint Registrar, Cooperative Societies and Ors. 2021 SCC OnLine Bom 4578***, scope to interfere in the election process which has progressed is minimal. While there is no absolute fetter on the power of the High Court to interfere in election process, and indeed in the absence of a provision akin to Articles 243-O or 243-ZG of the Constitution of India, there cannot be a fetter, the self-imposed limitation is that unless a glaringly exceptional case is made out, the High Court must be slow to cross the 'Laxman Rekha' albeit self-imposed and self-drawn 'Laxman Rekha'.

5. Considering that election petition would be the appropriate remedy to address the issue, there is absolutely no exceptional case made out for this Court to interfere.

6. The reliance placed by the learned counsel on the decision of the learned Single Judge in ***Manchak s/o Shahaji Pawar v. State of Maharashtra and others 2011(3) Mh.L.J. 833*** is absolutely misconceived. The reliance is placed presumably in ignorance of the development of law. The distinction made between interference which

accelerates the process of election rather than obstructs the same is obliterated in view of the Full Bench decision of this Court in *Karmaveer Tulshiram Autade and others v. The State Election Commission and others in Writ Petition (ST) 26 of 2021 and Writ Petition (ST) 28 of 2021*.

7. Nothing further needs to be observed.
8. The petition is dismissed.

JUDGE

NSN