

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

...

WRIT PETITION NO. 1854 OF 2022

Shri Mohd. Fahim s/ Mohd. Goud
and two others

..Petitioners

versus

The State of Maharashtra and
12 Others

..Respondents

Mr. D.B. Walthare, Advocate for Petitioners

Mr. A.S.Fulzele, Additional Government Pleader for Respondent
Nos.1 and 2

...

CORAM: NITIN JAMDAR &
ANIL L. PANSARE, JJ
DATED : 06 APRIL 2022.

P.C. :

Heard learned Counsel for the Petitioners.

2. The Petitioners have sought to question the election held for the Nagpur Agircultural Produce Marketing Committee, Nagpur. The election to the said Market Committee was held on 23 October 2021. The grievance of the Petitioners is that though the Petitioners were qualified to vote in the said election in the Traders and Brokers category, they were wrongfully disqualified because of which they could not vote in the said election as their names were not in the voters list.

3. The Petitioners had filed writ petition bearing No. 3716 of 2021 on 23 September 2021. The same was disposed of observing that the final voters list was published on 7 September 2021 and the last date of acceptance of nomination was 26 September 2021 and the prayer of the Petitioners to stall the election was not acceded to by the court observing that if any grievance the Petitioners may have, the Petitioners can raise the same in appropriate proceedings, after the election process is over.

4. Rule 88 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 provides method for determination of validity of election. It states that the validity of the election including bye-election of members of a Market Committee can be brought in question by any person qualified either to be elected or to vote at the election. This is the appropriate proceedings which is referred to by the Court in the order dated 28 September 2021 and not a writ petition. The Petitioners seek to challenge the election on the ground that the Petitioners were qualified to vote, however the Petitioners were wrongfully removed from the process. This ground, *prima facie*, will fall under Rule 88 of the Rules of 1967. The Petitioners have not approached the authority under Rule 88 and it is not the case that the authority under Rule 88 has held that since the Petitioners were not the voters, the Petitioners cannot bring an application

under rule 88. Also Rule 88 refers to the limitation. Therefore, if it is permissible in law depending on the limitation available, the Petitioners can always approach the authority under Rule 88 and it is for the authority to decide whether such application is maintainable or not.

5. With the above observations, the writ petition is disposed of.

[ANIL L. PANSARE,J.]

[NITIN JAMDAR,J.]

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