

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

30 WRIT PETITION NO. 1880 OF 2023

Shri Santosh s/o. Phulchand @

Fulchand Gandhi

Age : 51 years, Occupation : Business,

Resident of House No. 3416, Behind Datta Mandir,

Juna Bazar, Ahmednagar 414 001

Tal. & Dist. Ahmednagar.

.. PETITIONER

VERSUS

The State of Maharashtra

and others.

.. RESPONDENTS

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Mr.Abhaykumar Dilip Ostwal, Advocate for the petitioner

Mr.K.B.Jadhavar, AGP for the respondent-State

Mr.S.K.Kadam, Advocate for the respondent no.3

Mr.V.D.Hon, Senior Advocate i/b. Mr.A.V.Hon, Advocate for the
respondent nos. 4 to 12, 14, 16, 17, 20 21 and 25.

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CORAM: ARUN R. PEDNEKER, J.

DATE: 20th FEBRUARY, 2023

PER COURT:

1] The petitioner is challenging the impugned order dated 14.02.2023 passed by the Registrar, Co-operative Societies, Pune, Maharashtra in Appeal No. 20 of 2023 and the order dated 02.02.2023 passed by the Returning Officer, Ahmednagar.

2] The petitioner had submitted his nomination to the elections of the Board of Directors of Ahmednagar Merchant's Co-operative Bank Ltd. - respondent no.4. The nomination of the petitioner was scrutinized by the Returning Officer on 01.02.2023. During scrutiny of the nomination, the respondent nos. 5 and 6 have raised objections to the nomination of the petitioner on the ground that since the petitioner was a Director of Sahakar Maharshi Shri Suvalalji Gundecha Nagari Sahakari Patsanstha, Ahmednagar, as per bye-law No.45 (e) of the respondent no. 4 – Bank, the application of the petitioner for nomination should be rejected. In response thereto, the petitioner contended before the Returning Officer that he has tendered his resignation from the post of Director of Sahakar Maharshi Shri Suvalalji Gundecha Nagari Sahakari Patsanstha, Ahmednagar on 21.01.2023, as such, the petitioner is not disqualified. The resignation of the petitioner came into force from the time of his resignation.

3] The Returning Officer, by order dated 02.02.2023, disqualified the petitioner for being nominated to the Board of Directors of Ahmednagar Merchant's Co-operative Bank Ltd. - respondent no.4. Being aggrieved by the said order, the petitioner

preferred an appeal before the Registrar of Co-operative Societies, Maharashtra State, Pune – respondent no.2 under Section 152A of the Maharashtra Co-operative Societies Act, 1960. The Appellate Authority also rejected his appeal holding as under :

1. The by-laws of the Ahmadnagar Merchants' Co-operative Bank Limited, Ahmadnagar, Dist. Ahmednagar provides as under :

By-law No. : 45

Disqualification for being a member of the Board :

45 [e] :- is a director of any other Urban Co-operative Bank or Urban Co-operative Credit Society.

2. Perusing the resignation tendered by Shri. Santosh Fulchand Gandhi, the appellant, it is seen that, he has tendered his resignation to the Manager of the society on 21-1-2023.

3. The Objector has submitted the list of the Board of Directors dated 1-2-2023 of the Sahakar Maharshi Suvalalji Gundecha Jain Oswal Co-operative Credit Society Limited, Ahmadnagar as certified by the Society before the Returning Officer during the scrutiny. Accordingly, Shri. Santosh Fulchand Gandhi is found to be an active Director of Sahakar Maharshi Suvalalji Gundecha Jain Oswal Co-operative Credit Society Limited, Ahmadnagar.

4. It is seen that, the Returning Officer has decided the matter as per the facts that have been brought before him at the time of scrutiny.

4] By way of present Writ Petition, the petitioner has challenged the impugned order before this Court.

5] On 17.02.2023 at 11.00 a.m. final list of nominated candidate is published and the symbols are also allotted to the nominated candidates. As the elections are at the advanced stage and any interference at this stage would affect the elections. There is alternate remedy available to the petitioner to file an election petition, at an appropriate stage, under the Maharashtra Co-operative Societies Act and Election Rules.

6] In view of the above, I do not see any reason to interfere in the present Writ Petition. The present Writ Petition is dismissed with above liberty.

[ARUN R. PEDNEKER, J.]

DDC