

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

931 WRIT PETITION NO.4556 OF 2023

**ASHISH BAPUSAHEB KALDATE
VERSUS
THE DISTRICT ELECTION OFFICER APMC AND DISTRICT
DEPUTY REGISTRAR AND ANOTHER**

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Advocate for Petitioner: Mr. More Abhijit S.
Advocate for Respondents No.1&2: Mr. S. K. Kadam

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CORAM: ARUN R. PEDNEKER, J.

DATE: 20th APRIL, 2023

PER COURT:

1. Heard.

2. The petitioner has filed nomination for elections to the APMC Karjat from the constituency of Agricultural Credit Societies and Multipurpose cooperative societies. The nomination filed by the petitioner was rejected by respondent no.2 by the order dated 05.04.2023. The petitioner submitted certificate issued by the concerned Tahsildar in order to substantiate that the petitioner is an agriculturist. The petitioner also submitted his residence certificate issued by the Tahsildar concerned. On scrutiny of nomination, by the respondent no.2, the returning officer, by the order dated 05.04.2023, rejected the nomination filed by the petitioner on the ground that the

petitioner has not annexed the extract of 7/12 indicating that he is an agriculturist residing within the area of APMC. The petitioner filed an appeal against the said order. The said appeal was also dismissed by the appellate authority on 17.04.2023.

. The petitioner is found to be in violation of explanation to Sub-rule 4 of rule 21 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 which reads as under:-

"Explanation.- For the purpose of satisfying the Returning Officer that the candidate is an agriculturist, a certificate of the Talathi of the village where the candidate resides to the effect that the person is an agriculturist as defined in clause (b) of sub-section (1) of section 2 of the Act, and is residing in the market area shall be produced along with the nomination paper. The certificate shall be conclusive proof that the candidate is an agriculturist and is residing in market area."

3. A bare reading of the above provision would indicate that the candidate along with the nomination has to produce the certificate of Talathi of the village wherein the candidate

resides to the effect that the person is an agriculturist as defined in clause (b) of sub-section (1) of section 2 of the Act read with rule 9, Sub-rule (1) (a) of the Election Rules 2017. There is no other requirement of producing 7/12 extract before the returning officer alongwith the nomination.

4. In the instant case, the petitioner did produce a certificate of the Tahsildar indicating that he is an agriculturist holding 10 are of land and resident of the village and the same has to be accepted in terms of the notification issued by the State Cooperative Election Authority dated 01.04.2023. This aspect is not disputed by the advocate for the election authority.

5. In view of the same, the orders passed by both the authorities are set aside and it is directed that the petitioner's nomination be accepted and the list of nominated candidates be accordingly published.

6. The Writ Petition is disposed of.

[ARUN R. PEDNEKER, J.]

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