

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

907 WRIT PETITION NO.4647 OF 2023

Sanjay Vitthal Gaikwad,
Age-56 years, Occupation – Agriculture,
R/o. Bhusani, Tq. Omerga,
Dist. Osmanabad. **.. PETITIONER**

VERSUS

- 1] The Returning Officer,
Agricultural Produce Market Committee,
Murum, Tq.Omerga, Dist. Osmanabad.
- 2] District Deputy Registrar Co-operative Societies,
Osmanabad, Tq. & Dist. Osmanabad.
- 3] The Secretary,
Agricultural Produce Market Committee,
Murum, Tq. Omerga, Dist. Osmanabad.
- 4] Rahul Rushikesh Bansode,
Age: 40 yrs., Occu : Agriculture,
R/o. Yenegur, Tq. Omerga,
Dist. Osmanabad.
- 5] Bhalchandra Ankush Lokhande,
Age: 42 Yrs., Occu. Agriculture,
R/o. Yenegur, Tq. Omerga,
Dist. Osmanabad. **.. RESPONDENTS**

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Mr.R.V.Gore, Advocate for the petitioner.
Mr.V.H.Dighe, Advocate for the respondent no.1.
Mr.K.B.Jadhavar, AGP for the respondent-State
Mr.D.S.Mali, Advocate for the respondent no.4.
Mr.N.R.Pawade, Advocate for the respondent no.5

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CORAM : ARUN R. PEDNEKER, J.

DATE : 21.04.2023

P.C. :

1] By way of present Writ Petition, the petitioner is challenging the impugned order dated 17.04.2023 passed by the District Election Officer and District Deputy Registrar, Co-operative Societies, Osmanabad, rejecting nomination of the petitioner, which was accepted by the Returning Officer.

2] The elections to the respondent no. 3 – Agricultural Produce Market Committee, Murum was due, and as such elections programme was declared on 20.03.2023. The last date of nomination was on 03.04.2023. The scrutiny of nomination was on 05.04.2023 and withdrawal of the nomination was on 20.04.2023 and allotment of symbol is on 21.04.2023.

3] The petitioner filed his nomination from Grampanchayat constituency reserved for Scheduled Caste.

The nomination of the petitioner was accepted and his name was included in the list of nominated candidate. The respondent no. 5 filed an appeal before the District Returning Officer and District Deputy Registrar, Osmanabad under Section 27 of the Maharashtra Agricultural Produce Marketing [Development and Regulation] Act, 1964 against acceptance of the nomination of the petitioner on the ground that the petitioner is not an agriculturist and he has submitted bogus certificate and therefore he is not eligible to contest the election. The petitioner responded by filing documents i.e. application dated 05.04.2023, certificate dated 05.04.2023 issued by the Tahsildar, Omerga, affidavit dated 03.04.2023, 7/12 extract of Gat No.390 and the certificate dated 12.04.2023 issued by Tahsildar, Omerga, indicating that the petitioner is an agriculturist.

4] The Appellate Authority, by impugned order, held that the petitioner has not submitted certificate as contemplated under Rule 21 (4) of the Maharashtra Agricultural Produce Market Committee [Election to

Committee] Rules, 2017 that he is an agriculturist and a certificate along with nomination form, which is required as per the Rules of 2017 and the nomination was rejected. Rule 21 (4) of the Maharashtra Agricultural Produce Market Committee [Election to Committee] Rules, 2017, is as under:

21. Presentation of nomination paper and requirements for valid nomination

(4) On presentation of a nomination paper, the Returning Officer shall satisfy himself that the candidate is an agriculturist residing in the area or as the case may be, a trader and that the name and the number in the list of voters of the [candidate,] proposers and seconders as entered in the nomination paper are the same as entered in the list of voters :

Provided that, the Returning Officer shall permit any clerical or technical error in the nomination paper in regard to the said name or number to be corrected in order to bring them in conformity with the corresponding entries in the list of voters and where necessary, any clerical or printing error in the said entries shall be overlooked.

Provided further that, in case of election of fifteen agriculturists under clause (a) of subsection (1) of section 13, it shall not be required to verify the name of the candidate from the Voters' list.

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.

5] *Prima facie*, there is no patent illegality in the order passed by the Appellate Authority, as such, this Court in exercise of writ jurisdiction would not interfere in the ongoing elections process. The petitioner is permitted to raise all the grievances before the appropriate authority by filing an appropriate proceedings.

6] Accordingly, the Writ Petition is disposed of with aforesaid liberty.

[ARUN R. PEDNEKER]
JUDGE

DDC