

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

908 WRIT PETITION NO.4648 OF 2023

Kisanrao Sarjerao More,
Age: 52 years, Occu. : Agri.
R/o. Deogaon Khavane, Tq.Mantha,
Dist. Jalna.

.. PETITIONER

VERSUS

- 1] District Election Officer (APMC), Jalna
(District Deputy Registrar,
Cooperative Society, Jalna)
- 2] The Returning Officer,
Agricultural Produced Market
Committee, Mantha and Assistant Registrar,
Cooperative Society, Mantha,
Tq.Mantha, Dist. Jalna.
- 3] Agricultural Produced Market Committee,
Mantha, Tq. Mantha, Dist. Jalna.
Through its Secretary
- 4] Deshmukh Shrinivas Murlidhar,
Age : 47 years, Occu. : Agri.
R/o. Dhoksal, Tq. Mantha, Dist. Jalna
Tq. Newasa, Dist. Jalna.

.. RESPONDENTS

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Advocate for the petitioner : Mr.P.D.Bachate
Advocate for Respondent nos.1 and 2 : Mr.S.K.Kadam
Advocate for Respondent no.3 : Mr.S.S.Thombre

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CORAM : ARUN R. PEDNEKER, J.

DATE : 21.04.2023

P.C. :

1] By the present petition, the petitioner is challenging the order dated 18.04.2023 passed by the respondent no.1 – the District Election Officer [APMC], Jalna in Appeal No.7/2023, thereby rejecting the nomination of the petitioner to the APMC elections.

Facts of the present Writ Petition are as under:

2] The elections to the respondent no. 3 – Agricultural Produce Market Committee, Mantha was due and accordingly the provisional voters list was published. Thereafter, the final voters list was also published on 20.03.2023. The filing of nomination form was scheduled between 27.03.2023 to 03.04.2023. The scrutiny of the nomination form was scheduled on 05.04.2023. The publication of the list of valid nomination was scheduled on 06.04.2023 and list of contesting candidate is to be published on 21.04.2023. As per the election programme, the petitioner filed his nomination and the scrutiny was held on 05.04.2023.

3] The respondent no.4 raised objections stating that wife of the petitioner is a trader, having license of the respondent no. 3 Market Committee and her name is appearing at serial No.504 in the voter list of traders constituency of Market Committee. As such, the petitioner filed his reply and denied that the petitioner's wife is having any kind of trader license issued by the Market Committee.

4] After hearing the parties and the scrutiny of the objections raised by the respondent no.4, the respondent no. 2 rejected the objections raised by the respondent no.4. Thereafter, the respondent no. 4 filed an appeal before the Appellate Authority. After hearing the parties, the appeal was allowed by the appellate authority, holding that, the wife of the petitioner is holding traders license.

5] Having perused the order of the appellate authority, the name of the wife of the petitioner appeared in the trader license list and as such prima facie the order passed by the appellate authority holding that the wife of the petitioner has traders license and as such the petitioner

is disqualified to contest the elections from the agricultural constituency as per Rule 10 (2) (ii) of the Maharashtra Agricultural Produce Market Committee [Election to Committee] Rules, 2017 is not patently illegal.

6] Rule 10 (2) (ii) of the Election Rules, 2017 is as under :

10. Disqualifications of Committee member.

(2) A person shall not be chosen as a member, -

(i)

(ii) representing agriculturists constituency, if his main income is not from agriculture or possesses a traders', commission agents' or broker license or has interest in a joint family or a firm which has a trader's or commission agents' or broker license.

7] The name of the petitioner's wife is on the list of traders license and as such it cannot be said that the order passed by the appellate authority is patently illegal. Thus, this Court would not interfere in its writ jurisdiction.

8] In view of the same, the present Writ Petition is disposed of with liberty to the petitioner to seek alternate remedy of filing an election petition before appropriate authority.

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

[ARUN R. PEDNEKER]
JUDGE

DDC