

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7338 OF 2022

Sachin S/o. Sandip Shete

.... Petitioner

Versus

The State of Maharashtra
and others

.... Respondents

.....

Mr. Ankush N. Nagargoje, Advocate for the Petitioner
Mr. S.N. Morampalle, AGP for Respondent Nos.1 and 2

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 06th MARCH, 2023

ORDER :

1. By this petition, filed under Article 227 of the Constitution of India, the petitioner impugns the order dated 10/06/2022 passed by the learned District Judge-1, Sangamner, District Ahmednagar in Election Petition No.1 of 2022 and seeks direction to respondent No.2 to accept the nomination form filed by the petitioner for the post of Nominated Councilor of Akole Municipal Council.

2. The order of Returning Officer/respondent No.2 was challenged by the petitioner by filing Election Petition No.1 of 2022 before the learned District Judge-1, Sangamner. The

learned District Judge-1, after hearing both the parties, was pleased to dismiss the petition with costs. Hence, the present petition.

3. Heard the learned advocate for the petitioner and the learned Assistant Government Pleader. Respondent No.3, through served, has not caused any appearance. Perused the grounds raised in the petition, and the documents filed on record including impugned order.

4. The petitioner filed his nomination form for the post of Nominated Councilor of Municipal Council, Akole on 04/03/2022. The Returning Officer has rejected his nomination form on the ground that N.G.O./Society, i.e. "*Om Sai Samajik Sevabhavi Sanstha*" of which the petitioner is office bearer is not registered within the area of Municipal Council, Akole in terms of Rule 4(g) of the Maharashtra Municipal Councils, Nagar Panchayats Elections Rules, 1966.

5. It is the case of petitioner that the said Rule nowhere says that the concerned N.G.O./Society must be registered with the area of Municipal Council.

6. Learned advocate for the petitioner strenuously submits that as per the bye-laws of Society i.e. "*Om Sai Samajik*

Sevabhavi Sanstha", of which the petitioner claims to be a Treasurer, has its area of operation in the entire India and throughout the State of Maharashtra. He, therefore, submits that the Returning Officer erred in coming to the conclusion that the said Society is not functioning within the jurisdiction of Akole Municipal Council, and therefore, the petitioner is not eligible.

7. He further assailed the order passed by the learned District Judge-1, Sangamner, contending that he has misread and misinterpreted the provisions of Rule 4(g), and the ratio in *Sharanbasappa Rachappa Khambad Vs. State of Maharashtra*, passed by the Division Bench of this Court in Writ Petition No.8962 of 2013.

8. Rule 4(g) of the Maharashtra Municipal Councils, Nagar Panchayats Elections Rules, 1966, reads thus:

"4(g) has experience of not 'less than five years as an officer bearer of a Non-Government Organization registered under the Bombay Public Trusts Act, 1950, engaged in Social Welfare activities, working within the area of a Municipal Corporation or a Council."

9. Plane reading of Rule 4(g) shows that the office bearer of the Non-Government Organization registered under the Bombay Public Trust Act, 1950 has to be engaged in Social Welfare activities, within the area of a Municipal Corporation or a Council.

10. In ***Sharanbasappa Rachappa Khambad*** (supra), the Division Bench has observed thus:

"..... Thus, clause (g) requires that the candidate should have experience of working as an Officer Bearer of Non-Government Organization within the area of concerned Municipal Council to which the candidate has applied for being nominated. The legislature has not chosen to use the words "area of any municipal Council". In the present case, these certificates produced by sixth respondent do not record that the three Non-Government Organization are working within the area of the said Municipal Council."

11. By conjoining together with Rule 4(g) of the Maharashtra Municipal Councils, Nagar Panchayats Elections Rules, 1966 as well as ratio in ***Sharanbasappa Rachappa Khambad*** (supra), it

is clear that clause (g) requires that the candidate should have experience of working as an office bearer on Non-Government Organization within the area of concerned Municipal Council to which the candidate has applied for being nominated. It is further necessary to show that he should be engaged in Social Welfare activities, within the area of a Municipal Corporation or a Council.

12. In the case in hand, the petitioner has not placed any material on record to show that Non-Government Organization/Society of which he is a Treasurer, is engaged in Social Welfare activities within the area of Municipal Council, Akole.

13. The learned advocate for the petitioner tried to point out averments made in the petition to the effect that "*apart the jurisdiction of the Society/N.G.O. of which, the petitioner is office bearer is having its jurisdiction in entire country including Akole Municipal Council. The said Society/N.G.O. and the petitioner have done various works such as arranging the cultural programmes, making awareness regarding dowry, child marriage, self employment, providing medical help to poor persons, handicapped, tribal persons etc.*"

14. Except bare statement, the petitioner has not placed anything on record to show that the said activities were conducted by the petitioner or the said N.G.O./Society within the area of Akole Municipal Council.

15. The learned District Judge has rightly interpreted the said provision of Rule 4(g) and the ratio in ***Sharanbasappa Rachappa Khambad*** (supra). No case is made out by the petitioner to warrant interference to the impugned judgment and order.

16. The writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane