

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5993 OF 2023

Nandkumar Anandrao Valanju Petitioner

Versus

State of Maharashtra and Ors. Respondents

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Mr.Drupad Patil, Advocate for Petitioner.

Mr.K.S. Thorat, AGP a/w. Ms.Kavita N. Solunke, AGP for Respondent Nos.1 and 3.

Mr.Dilip Patil Bankar, Chief Standing Counsel SCEA.

Mr.S.S. Patwardhan i/b. Mr.Chetan G. Patil, Advocate for Respondent No.4.

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**CORAM : K.R. SHRIRAM &
RAJESH S. PATIL, JJ.**

DATED : 28th APRIL 2023

P.C. :

1 Petitioner is impugning an order dated 27th April 2023, passed by Respondent No.2, namely, State Cooperative Election Authority.

2 Petitioner was member of Agricultural Produce Market Committee (for short, "APMC, Kolhapur") as representatives of traders under Section 13(b) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act 1963 (for short, "The Act"). Petitioner is a voter and his name is also included in the voter's list.

3 Petitioner carries on business as sole proprietor in the name and style M/s.Abhijeet Fruit Suppliers, M/s.Valanju Anna Ganpati, M/s.Laxmi Anand Traders and M/s.Pooja Fruit Suppliers. In addition, Petitioner also carries on business in his individual name, i.e., Valanju Narayan Anandrao. In short same person is wearing five different hats.

4 The elections of APMC Kolhapur is going on today. Mr.Patil mentioned the matter this morning at 10:30 a.m. for urgent circulation stating that the order impugned in the Petition passed on 27th April 2023 by Respondent No.2 bars him from casting five votes but permits him to vote only once from each constituency, and as the election is in progress today, there is urgency. Hence we granted circulation at 02:30 p.m. On notice Respondents are present. All Respondents oppose the Petition.

5 On 26th April 2023 Respondent No.2 passed an order directing that one voter can vote only once from a particular constituency/ward. Petitioner immediately filed a representation on 27th April 2023 stating that he carries on business in his individual name and as sole proprietor in four different names and has been so

registered with Respondent No.4, and thereby has five registrations. Hence Petitioner should be permitted to cast five votes from one constituency. This representation of Petitioner that was filed on 27th April 2023 was rejected and by the impugned order dated 27th April 2023, Respondent No.2 has reiterated basically what is recorded in the order dated 26th April 2023. Mr.Patil candidly admitted that this was applicable to all voters and Petitioner was not being discriminated against.

6 Sub-Rule (1) of Rule 8 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules 2017 (for short, “The Rules”), provides that every person whose name is entered in the final voter’s list of respective constituency shall be entitled to vote in that constituency. If we see the voter’s list, against five names registered by Petitioner, the name of the voter is only that of Petitioner. Rule 8(1) reads as under:

“8. Right to vote. – (1) Every person whose name is entered in the final voters list of respective constituency shall be entitled to vote in that constituency:

Provided that, the Agriculturist’s Constituency, the name of the voter appearing in the division (Gan) shall be entitled to vote only in such division (Gan).”

7 Mr.Patil for Petitioner fairly admits that nowhere in the

Act is a sole proprietor defined and the Act also does not state a sole proprietor is similar to a company registered under the Companies Act 1956 or 2013. A sole proprietary concern is not a separate entity in law. It is the same individual who carries on same business but in different name and style.

Mr.Patil was also not able to show that the Act read with the Rules provides if an individual carries on business in 20 names or 10 names or 5 names, as in this case, the same person will be entitled to cast so many votes.

8 Therefore, we find nothing wrong in the order impugned in the Petition.

9 Petition dismissed. No orders as to costs.

(RAJESH S. PATIL, J.)

(K. R. SHRIRAM, J.)