

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6442 OF 2023

Sunil Mohanlal Chopda & Ors.

..... Petitioners

VERSUS

The Returning Officer & Ors.

..... Respondents

Mr.Pramod Patil, i/b. Mr.Dhananjay Thoke for the Petitioners.

Mrs.R.M.Shinde, A.G.P. for the State – Respondent No. 1B – District Registrar.

Mr.Abhijit Patil for the Respondent No.3.

Mr.P.S.Sahane for the Respondent Nos. 4 and 34.

Mr.Pooja Deelip Patil, i/b. Mr.Deelip Patil Bankar, Chief Standing Counsel SCEA – Respondent No.1A.

Mr.V.T.Chougule – Respondent No.11 is present.

**CORAM: R. D. DHANUKA , CJ AND
G.S.KULKARNI, JJ.**

**DATE : 29TH MAY, 2023
(VACATION COURT)**

P.C:-

Learned counsel for the Petitioners seeks liberty to delete the names of Respondent Nos. 5 to 10, 12 to 33 and 35 to 124. Leave to amend is granted to delete District Deputy Registrar of Co-operative Societies, Nashik, District Deputy Registrar of Co-operative Societies Nashik from the cause title of the Respondent No.1 and show Respondent No.1 'The Returning Officer' as Respondent No.1(A). The Petitioners shall implead District Deputy Registrar of Co-operative

Societies Nashik as Respondent No.1B.

2. Rule. Learned counsel waives service for the Respondents. Rule is made returnable forthwith. By consent of parties who are present in Court, petition is heard finally.

3. By this writ petition filed under Article 226 of the Constitution of India, the Petitioners have prayed for a declaration that the action of the Respondent No.1 in accepting the nomination of Respondent Nos. 4 to 59 is *ex-facie* illegal and consequent thereupon may direct the Respondent No.1 to cancel/reject the nomination/candidature of the Respondent Nos. 4 to 59 and for other reliefs.

4. Learned counsel for the Petitioners has invited our attention to the order dated 18th May, 2023 passed by the learned Vacation Court in ***Writ Petition No. 6345 of 2023*** in case of ***Nivrutti Vithoba Aringale vs. State of Maharashtra through Minister for Co-op. and others*** thereby granting *ad-interim* relief in terms of prayer clause (bb) of the said writ petition which reads thus :-

(bb) Pending the hearing and final disposal of the present Writ Petition be pleased to Stay the effect,

implementation, execution and operation of the impugned order dated 26/04/2023, passed by the Respondent No.1, Ld. Minister for Co-operation, (M.S.) at Mantralaya, Mumbai passed in the Appeal No. 172 of 2023 and the application for delay condonation filed by Respondent Nos. 6 and 7.

5. We are informed that the said Writ Petition No. 6345 of 2023 is still pending. By the said *ad-interim* order, this Court has stayed the effect, implementation, execution and operation of the impugned order dated 26th April, 2023 passed by the learned Minister for Co-operation, Maharashtra State in Appeal No.172 of 2023 and the application for condonation of delay filed by the Respondent Nos. 6 and 7 in the said writ petition. The said order passed by this Court is in force even today.

6. The learned Minister had condoned the delay of more than 5 years in preferring the appeal for challenging the amendment of the bye-law, which was approved on 13th November, 2017 and also granted stay to the implementation of the amended bye law No.40.

7. We are informed by the learned counsel for the Petitioners that before passing of the said *ad-interim* order dated 18th May, 2023, the authority accepted the nomination forms of some of the Respondents.

We are further informed that the last date of withdrawal of the candidature is 1st June, 2023. The Respondents including the returning officer cannot ignore the *ad-interim* relief granted by this Court on 18th May, 2023 by taking further steps in furtherance of the election programme.

8. We accordingly direct Respondent No.1 to consider the effect of the said *ad-interim* order passed by this Court on 18th May, 2023 in Writ Petition No. 6345 of 2023 while taking further steps in furtherance of the election programme and pass appropriate orders. It is made clear that this order passed by this Court is without prejudice to the rights and contentions of the other contesting Respondents who are not before the Court today and also the parties who are present before this Court.

9. Writ petition is allowed in the aforesaid terms. Rule is made absolute accordingly. No order as to costs. The parties to act on the authenticated copy of this order.

[G.S.KULKARNI, J.]

[CHIEF JUSTICE]