



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14390 OF 2023

Pawar Sandip Dashrath and Others

... Petitioners.

Versus

Nivrutti Mahadu Pawar and Others

... Respondents.

Mr. Anilkumar K. Patil, Advocate for the Petitioners.

Mr. K.S. Thorat, Advocate for Respondent Nos.12 and 13.

CORAM : SHARMILA U. DESHMUKH, J.

DATE : NOVEMBER 22, 2023.

(VACATION COURT)

P. C. :

1. At the outset learned counsel appearing for the Petitioners submits that all the Respondent Authorities were served, however, the private Respondents have refused service. He undertakes to file affidavit of service within a period of one week from today.

2. The petition takes exception to the order dated 17th November, 2023, passed by the Assistant Registrar of Cooperative Societies, allowing the Appeals filed by the Respondent Nos.1 to 9 respectively. Learned counsel appearing for the Petitioners submits that, he confines his challenge only in respect of Respondent No.1-Nivrutti Mahadu Pawar and Respondent No.6-Sulochana Dinkar Pawar.

3. The elections to the Respondent No.11-Sant Savta Mali Gramin

Bigar Sheti Co-operative Credit Society Ltd. were declared and the election programme is as under:

<i>“Date</i>	<i>Particulars</i>
30.10.2023 to 3.11.2023	<i>To take and accept nominations</i>
6.11.2023 11 a.m.	<i>Scrutiny of Nominations.</i>
7.11.2023	<i>Publication of list of valid nominations.</i>
7.11.2023 to 21.11.2023	<i>Withdrawal of nominations</i>
22.11.2023	<i>Publication of final list of candidates and allocations of symbols.</i>
2.12.2023	<i>Elections.</i>
2.12.2023	<i>Same date counting of votes and publications of results.”</i>

4. The Respondent Nos.1 to 9 filed their nominations to which an objection was taken by the petitioners. As regards the Respondent No.1, the objection taken by the Petitioners is that he is a director of the rival credit co-operative society i.e. Vignaharta Nagari Sahakari Pat Sanstha, Sinner and as such, he cannot contest the elections of Respondent No.11-Credit Society. By order dated 7th November, 2023, the Returning Officer rejected the nomination of Respondent No.1 on the ground that the requirement of the fixed deposit was not complied by the Respondent no.1 as the fixed deposit receipt was not annexed. The Returning Officer did not consider the objection of the Petitioners that the Respondent No.1 being the director of a rival credit cooperative society is not qualified to

contest the election of Respondent No.1-Credit Society. As against the order of the Returning Officer dated 17th November, 2023, an appeal came to be filed by the Respondents before the Assistant Registrar of Co-operative Societies. In these proceedings, an application was filed by the Petitioners seeking leave to intervene on the ground that the objection raised have not been considered by the Returning Officer. This application came to be rejected by the Assistant Registrar of Co-operative Societies.

5. By the impugned order dated 17th November, 2023, the Assistant Registrar of Co-operative Societies, allowed the appeal by considering that during the proceedings, the copy of the fixed deposit receipt was annexed and as such, the ground on which the Returning Officer has disqualified the Respondent No.1 no longer survives. Mr. Patil, takes exception to the impugned order on the ground that his objection was in fact not considered and on completely different ground, the disqualification as recorded by the Returning Officer has been set aside by the Appellate Authority.

6. Considering that the Returning Officer had rejected the nomination of the Respondent No.1 on the ground that the fixed deposit receipt was not annexed, which receipt has now come to be annexed to the proceedings before the Appellate Authority, no fault can be found with the order of the Appellate Authority dated 17th November, 2023.

However, the fact remains that the objection of the Petitioners that the Respondent No.1 is a director of a rival credit co-operative society has not been dealt by the Returning Officer at all. It is therefore necessary that the said objection be considered by the Returning Officer before the nomination of the Respondent No.1 can be accepted.

7. Considering the schedule of the election programme as indicated above, on 22nd November, 2023, the final list of candidates will be published and the symbols will be allotted. In view thereof, in the interest of justice, it is necessary that the Returning Officer be directed to consider the objection of the petitioners as regards the Respondent No.1 being a director of the rival credit co-operative society and as such, disqualified to contest the election of Respondent No.11-Society and to decide the same tomorrow i.e. 23rd November, 2023. In event, it is found that the nomination of the Respondent No.1 cannot be accepted, the Returning Officer will publish the revised list of final list of candidates. Mr. Patil, submits that the Petitioners would appear before the Returning Officer on 23rd November, 2023 at 11:00 a.m. He also undertakes to intimate the Respondent No.1 about the hearing before the Returning Officer today itself.

8. As regards the Respondent No.6, the objection taken was that the Respondent No.6 was a defaulter and the recovery certificate has been

issued. Mr. Patil points out the recovery certificate which is annexed at page No.36 of the petition and at Sr.No.2 the name of the Respondent No.6 can be noticed. The Returning Officer as in the case of Respondent No.1 has not decided the objection raised to the nomination of Respondent No.6. As such, the Returning Officer is directed to decide the objection of the Petitioners as regards the Respondent No.6, in the same manner as directed in respect of the Respondent No.1 i.e. on 23rd November, 2023.

9. In view of the above, writ petition stands disposed of in the above terms.

10. All parties to act on the authenticated copy of this order.

(Sharmila U. Deshmukh, J.)