



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15466 OF 2023

Sandeep Subhash Bhavar

...Petitioner

Versus

Sohanlal Mohanlal Bhandari & Ors.

...Respondents

Mr. Rameshwar N. Gite a/w. Mr. Rohit Gorade and Mr. Sushant N. Tare, for the Petitioner.

Mr. Atul Damle, Senior Advocate a/w. Mr. Vivek Salunkhe i/b. MR. Ajinkya Jaibhave, for Respondent Nos. 1 to 12.

Mr. P. N. Joshi, for Respondent No.14.

Mr. S. D. Rayrikar, AGP, for the State/Respondent No.15.

CORAM : MADHAV J. JAMDAR, J.

DATED : 13th DECEMBER 2023

P.C. :

1. Heard Mr. Gite, learned Counsel appearing for the Petitioner, Mr. Damle, learned Senior Counsel appearing for Respondent Nos.1 to 12, Mr. Joshi, learned Counsel appearing for Respondent No.14 and Mr. Rayrikar, learned AGP appearing for the State/Respondent No.15.

2. The challenge in the present Writ Petition is to the legality and validity of Order dated 4th December 2023 passed by the Respondent

No.13-Election Returning Officer, Nashik Merchants Co-operative Bank Ltd. Nashik (Multi-State Schedule Bank) alias District Deputy Registrar Co-operative Societies, Nashik.

3. It is the contention of the Petitioner that the Respondent Nos.1 to 12 are disqualified for being member of the board in terms of Section 43(1) (h) of *The Multi State Cooperative Societies Act, 2002* (hereinafter referred to as “**the said Act**”) and therefore, not entitled to contest the election.

4. It is the contention of Mr. Joshi, learned Counsel appearing for Respondent No.14 and Mr. Damle, learned Senior Counsel appearing for Respondent Nos.1 to 12 that the Petitioner has filed earlier Writ Petition No.13749 of 2018 raising the same objection and by Order dated 4th December 2018 passed in the said Writ Petition, the Order overruling the said objection has been upheld.

5. It is the contention of Mr. Gite, learned Counsel appearing for the Petitioner that learned Single Judge while passing the Order dated 4th December 2018 has not taken into consideration the directions dated 3rd January 2014 issued by the Reserve Bank of India (hereinafter referred to as “**RBI**”). However, it is the contention of learned Counsel appearing for the contesting Respondents that the

said Order is annexed to the Writ Petition No.13749 of 2018.

However, both the learned Counsels fairly admit that said Order of the RBI is not referred in the Order dated 4th December 2018 of learned Single Judge passed in Writ Petition No.13749 of 2018.

6. However, perusal of the Order dated 3rd January 2014 passed by the RBI clearly shows that the same has been *inter alia* passed on the basis of Order passed in the year 2000 and Order passed by the Appellate Authority, as referred in paragraph No.4 of the Order of the RBI. After considering the Order of the Appellate Authority dated 10th July 2008, learned Single Judge in said Order dated 4th December 2018 has held that there is no decision against the contesting Respondents in the said Writ Petition.

7. Section 43(1)(h) of the said Act on which the Petitioner has relied, provides that no member of any multi-state co-operative society or nominee of a member, society or a national co-operative society shall be eligible for being chosen as, or for being, a member of the board of such multi-State co-operative society or a national co-operative society, or of any other co-operative society to which the multi-State co-operative society is affiliated, if such member is a person against whom any amount due under a decree, decision or

order is pending recovery under this Act. Thus, it is clear that what is contemplated under Section 43 of the said Act is a person against whom any amount due under a decree, decision or Order is pending recovery under the said Act, will incur disqualification for being a member of board. After taking into consideration the said orders as noted hereinabove, a learned Single Judge has held that there is no decree, decision or order passed against the Respondent Nos.1 to 12 regarding recovery. Therefore, there is no substance in the present Writ Petition.

8. Accordingly, the Writ Petition is dismissed, however, with no Order as to costs.

[MADHAV J. JAMDAR, J.]