

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 2137/2023

Govinda s/o Ganpatrao Mirge

Vs.

District Election officer (APMC) and District Deputy Registrar and others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R.G. Kavimandan, Advocate for petitioner

Ms. T.H. Khan, AGP for Respondent / State

CORAM: AVINASH G. GHAROTE, J.

DATED : 31st MARCH, 2023

The inclusion of the name of respondent No.4 in the provisional voters' list is being objected on the ground that his son (respondent No.5) was having a license of broker (*adatiya*) and therefore, under the provisions of Rule 10(2)(ii) of the Maharashtra Agricultural Produce (Election to Committee) Rules, 2017, the respondent No.4, since he resided in the same place as the respondent No.5 and was his father, stood disqualified as he had an interest in a joint family.

2. This contention has been rejected by respondent No. 1 by the impugned order and in my considered opinion rightly so. Merely because the respondent No. 4 is the father of respondent No. 5 and is residing along with him, cannot give rise to a

presumption that there is a joint family in which the respondent No. 4 would be having an interest, since it is an admitted position that the license of the broker, is only in the name of respondent No. 5 and nothing has been placed apart from this allegation to indicate that there was a joint family of respondent Nos. 4 and 5 doing the business in which the respondent No. 4 had an interest. The impugned order insofar it relates to respondent No.4, is maintained.

3. Insofar as the respondent No.5 is concerned, his contention is that there are different constituencies for the elections to the APMC, and the name of the person has to be included only in one constituency as it is a single voter constituency and cannot included from two different constituencies. In the instant case, the respondent No.5, who is a license broker of the APMC, Shegaon, finds his name in the constituency of traders / brokers (Sr.No.48 page 29) so also in the constituency of agriculturist (Sr.No.365 page 47), which according to the learned counsel for the petitioner is not permissible. Similar is the position regarding the respondent No.6 whose name is found in the constituency of trader / broker (Sr.no.45 at page 29 and also constituency of agriculturist (Sr. No.363, page 47.

4. It is however, material to note, that the final voters' list was published on 20/03/2023 and the election programme has already commenced with the filing of nominations on 27/03/2023. In view of which, I am not inclined to interfere in the impugned order at this stage, as the grievance of the petitioner can be addressed before the appropriate forum after the election is over.

5. The writ petition is disposed of in above terms. No costs.

JUDGE

MP Deshpande