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42B-WP-14439-2023 modified

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

42 WRIT PETITION NO. 14439 OF 2023

Balaji s/o Ramrao Desai and Ors.

VERSUS

The District Co-operative Election Officer And District Deputy Registrar
Co. Operative And Ors

...

Mr. Mahesh S. Deshmukh and Mr.M. P. Tripathi, Advocate for the
Petitioners.

Mr. V. H. Dighe for Respondent No.1 and 2.

Mr. Nilkanth R. Pawade for Respondent No.4.

Mr. K. N. Lokhande, AGP for Respondent-State.

CORAM : KISHORE C. SANT, J.

DATE : 16th DECEMBER 2024

PC :-

1. Heard the learned Counsel for the parties.
2. This petition is filed by members, who were elected to Gurukrupa Dhanya Adhikosh Sahakari Sanstha Ltd. Chudawa, Tq. Purna Dist. Parbhani. They were held disqualified in view of Rule 66(1)(b) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014, holding that they failed to submit the expenses of the election in time. The District Deputy Registrar Co-operative Societies, Parbhani

directed to take action against the present petitioners.

3. It is the case of the petitioners that, though they had filed an nomination form alongwith other members to contest the election, subsequently, the other persons withdrew their nominations and thereby they were declared elected as unopposed and as such there was no contest. The word used in Rule 66 is the **contesting** party. The learned Advocate for the petitioners relied upon the judgment passed by this Court in Writ Petition No.248 of 2023 in the case of *Smt.Janabai w/o Gondu Mahajan Vs. The District Co-operative Election Authority and Divisional Joint Registrar, Co-operative Societies and Ors.* This Court in the facts of that case held that the person who raised the objection therein had no *locus standi*. In support of his first submission, he relied upon the notification of the Secretary, State Co-operative Election Authority, Maharashtra State, Pune dated 15th January 2024, wherein it is stated that the person who is elected unopposed need not furnish the expenses for the election. In support of his second submission as regards *locus standi* of the Respondent No.4, he submitted that the objector in this case is not a member of the society. He further submits that in the

present case when there was no contest, there is no question of submitting the expenses. He thus, prays for allowing the petition by setting aside the order passed by Respondent No.1 i.e. the District Co-operative Election Officer and the District Deputy registrar, Co-operative Societies, Parbhani.

4. Learned Advocate for Respondents vehemently opposes the petition. He submits that though he is not a member of the society, still he has every right to file the dispute. He relied upon the judgment in the case of *Prashant Amrutrao Tayde Vs. Hon'ble Minister for Co-operation and Textile and Ors.*¹ He submits that in a democratic set up and considering larger public interest, every person has *locus standi* to challenge the election of the society. He opposes the petition.

5. For the present controversy, this Court need not go into the question of *locus standi*. So far as the other ground is concerned, as to whether a person who is declared elected as unopposed, whether be said to be a person contesting the election. In view of order dated 15th January 2024 passed by the Secretary, State of Cooperative Election

1 2012 (2) AIR Bom R 832

Authority, it is clear that the said authority is of the view that election expenses are to be submitted only by the person who is elected by "contesting" the election. In view of this, this Court finds that without going into must details, petition can be disposed off.

6. In view of above discussion, petition is allowed in terms of prayer clause (B).

7. Question of *locus stnadi* is not answered in this petition as same is not required.

8. The society is already de-registered. However, the petition is pending against the said order of di-registration. This order to operate subject to outcome of Writ Petition No.10299 of 2024.

[KISHORE C. SANT, J.]

This order is speaking to minutes of order dated 02.01.2025.