



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO. 22 OF 2024

RAJKIRAN MANIK SATHE AND ANOTHER

....Petitioner

VERSUS

THE STATE COOPERATIVE ELECTION AUTHORITY AND
OTHERS

.....Respondent

...

Advocate for the Petitioner : Mr. B.B. Bhise

AGP for Respondents/State : Mr. P.S. Patil

Advocate for Respondent Nos. 1 & 3 : Mr. S.K. Kadam

Advocate for Respondent No. 4 : Mr. D.J. Chaudhary

...

CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.

DATE : 03rd JANUARY, 2024.

PER COURT :

1. The petitioners are seeking following reliefs by invoking the constitutional powers of this Court under Article 226 of the Constitution. :

“C) The Respondent No. 3 may please be directed to accept the applications of the petitioners seeking withdrawal of their nomination forms of Ashiv Gat of respondent No. 4 and allow the petitioners for withdrawal of

their nominations by passing appropriate order.

D) The applications of the petitioners may please be allowed and the petitioners may be allowed to withdraw their nominations from Shiv Gat of respondent No 4 from sugarcane producers constituency, by passing appropriate order.”

2. Heard the learned Advocate for the parties.

3. It is not in dispute that the petitioners are the members of respondent No. 4 and they had submitted their nomination forms from Ashiv Ghat to respondent No. 4 from Sugar Cane producers constituency. Election program was declared and as regards the withdrawal of the nominations are concerned, the period that was given was from 12.12.2023 at 3.00 p.m. to 26.12.2023 at 3.00 p.m. The petitioners contend that they had decided to withdraw the nomination forms. They started from their village and reached the office of the Returning Officer 10 minutes late. Their withdrawal was not accepted and therefore, the present petition has been filed.

4. As regards the legal position is concerned, part V of the Maharashtra Co-Operative Societies (Election to Committee)

Rules 2014 deals with the conduct of the election. Rule No. 18 pertains declaring the election program. Rule No. 27 deals with the withdrawal of the candidature. Here we are more concerned with Rule 27, which runs thus,

“27. Withdrawal of candidature. - (1) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer in FORM 'E-6'.

(2) The notice shall be delivered to the Returning Officer before 3-00 O'clock in the afternoon on the last date fixed under rule 18 for the withdrawal of candidature as specified in the election programme.

(3) The notice shall be given either by the candidate or by his proposer in person in writing.

(4) No person who has given a notice of withdrawal of his candidature under sub-rule (1) shall be allowed to cancel his notice.

(5) The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of person delivering it under sub-rule (2), cause a notice to be affixed on the notice-board in his office.”

5. It can certainly seen from the legal position that there is no discretion left to the Returning Officer to accept the withdrawal form of the candidature after the time is over. The withdrawal should be as per the Rule 27 as stated above and the petitioners have failed to follow the same. Under the

circumstances, no case is made out for exercising our constitutional powers. The petition stands dismissed.

(S.G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE

mahajansb/