

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3948 OF 2024

Bhartiya Vikas A, Co-operative Housing Society Ltd., }
 Kamla Nagar Bhartiya Vikas “A” Co- }
 operative Housing Society Ltd., }
 A Co-operative Society Registered under }
 the The Maharashtra Co-operative Societies }
 Act, 1960, }
 Through Chairman Ramesh Somaji }
 Mhaske }
 Having Office At : Kamla Nagar, Jasmine }
 Mill Road, Dharavi, Mumbai-400017. }

....Petitioner

Versus

NILAM
SANTOSH
KAMBLE

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Date: 2024.08.21
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1. Raj David (Deceased) }
 Thr. Legal Heir Ameena Sundeval, }
 Age-Adult, Occ: Not Known }
 R/at F/72, 1/2, Bhartiya Vikas ‘A’ CHS }
 Ltd., Kamla Nagar Bhartiya Vikas “A” Co- }
 operative Housing Society Ltd., Kamla }
 Nagar, Jasmin Mill Road, Dharavi, }
 Mumbai-400017. }

2. Shafiqullah }
 Age-Adult, Occ : Not known }
 R/at : Bhartiya Vikas “A” CHS Ltd., }
 Kamla Nagar Bhartiya Vikas “A” Co- }
 operative Housing Society Ltd., Kamla }
 Nagar, Jasmin Mill Road, Dharavi, }
 Mumbai-400017. }

3. Assistant Registrar, Co-operative Societies, Slum Rehabilitation Authority, Mumbai. }
 Add : New Administrative Building, }
 Anant Kanekar Marg, Bandra (E), }
 Mumbai-400051. }

4. Mr.M.V. Rane }
 (Erstwhile Administrator) }
 Age- Adult, Occ : Not Known }
 R/at : 42/204-205, }
 Sulochana Co. Op. Hsg. Soc. Ltd., Sector-2, }
 RDP-1, Nadivali (W), Mumbai-400067. }

5. Mr.Sunil Shinde }
 (Erstwhile Administrator) }
 Add : New Administrative Building, }
 Anant Kanekar Marg, Bandra (E), }
 Mumbai-400051. }

6. Mr.Laxman Thawara Rathod }
 (Returning Officer/Election Officer) }
 Auditor Category-I, North Mumbai }
 Add: Kamla Nagar Bhartiya Vikas "A"Co. }
 Operative Hsg. So. Ltd, Kamla Nagar, }
 Jasmin Mill Road, Dharavi, }
 Mumbai-400017. }

....Respondents

Mr.Nikhil Wadikar a/w Mr.Ankush Jaiswal, Mr.Parth Katira,
 Mr.Aniket Gole i/b Mr.Nandu Pawar, for the Petitioner.
 Mr.Shailendra Kumar Sharma a/w Mr.Kunal Patel, for
 Respondent No.1.
 Ms.Uma Palsuledesai, for Respondent No.3-SRA.

CORAM : R.M. JOSHI, J.

DATE : 16th AUGUST 2024

JUDGMENT :-

. This Petition is filed by Co-operative Housing Society for raising challenge to the order passed by Divisional Joint Registrar on the ground that the Petitioner and other necessary parties were not heard before passing order.

2. Petitioner is a Co-operative Housing Society. According to the Petitioner, Respondent No.1 member of the society was disqualified from contesting the election of the society for the period of 5 years in view of the order dated 25th November 2019 passed by the Joint Registrar Co-operative Societies, Mumbai. An Administrator came to be appointed on the society. The Respondent No.6 was appointed to conduct the election of the society by order dated 10th May 2022 passed by Assistant Registrar, Co-operative Societies. Respondent Nos.1 and 2 challenged the said order before Divisional Joint Registrar Co-operative Societies, Mumbai Division, in Revision Application No.215 of 2022. It is grievance of the Petitioner that

without issuing notice to the society or the Administrators, the impugned order came to be passed.

4. The learned counsel for the Petitioner submits that considering the powers exercised by the Divisional Joint Registrar under Section 154 of the Maharashtra Co-operative Societies Act, it was incumbent on his part to issue notice to the Respondents and to give an opportunity of the hearing before passing order. It is submitted that since the order impugned is in disregard of the principles of natural justice, the same cannot sustain.

5. The learned counsel for the contesting Respondents supported the impugned order by contending that having regard to the administrative nature of order passed by the Assistant Registrar of appointment of the Election Officer, no opportunity of hearing was necessary to have been given to Petitioner by the Divisional Joint Registrar.

6. There cannot be any dispute made about the basic principle of law that rule of *audi alteram partem* must be followed in the proceedings which are *quasia judicial* in nature. Divisional Joint Registrar under Section 154 of the Act exercises such

jurisdiction. Perusal of the proceedings filed before this Authority indicates that the Administrators as well as Election Officer/Returning Officer were made party Respondent. However, without issuance of notice and hearing them order impugned came to be passed. Since, there is failure on the part of the Authority to follow the principles of natural justice and as the order impugned is passed without hearing the concerned parties, such order cannot sustain. It is therefore stands set aside.

7. The Revision Application bearing No.215 of 2022 is relegated back to the Divisional Joint Registrar for decision a fresh after hearing the all necessary parties and in accordance with law.

8. The Petition stands allowed in above terms.

9. All pending Civil and Interim Applications are disposed of.

(R.M. JOSHI, J.)