



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

WRIT PETITION NO.4238 OF 2024

[Kishor S/o Ghisulal Goenka **VERSUS** Returning Officer/Election Officer, Akola
Janta Commercial Co-operative Bank Ltd., Akola and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's order
Registrar's orders.

Shri T.U. Tathod, Counsel for Petitioner.

Shri D.V. Chauhan, Government Pleader for Respondent No.1.

Shri N.S. Deshpande, Deputy Solicitor General of India for
Respondent No.2.

Shri R.L. Khapre, Senior Advocate, assisted by Shri D.R. Goenka, Counsel
for Respondent No.3.

CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.

DATE : 18th JULY, 2024

P. C. :

1. Heard.
2. The petitioner claims to be the member and voter of the respondent No.3, a Multi-State Co-operative Society.
3. By this petition, the petitioner has questioned the legality and sustainability in law of the election programme dated 13-6-2024 issued by the respondent No.1-Returning Officer. The Collector of Akola District is nominated to be the Returning Officer for the conduct of election of the respondent No.3-Society.
4. Shri T.U. Tathod, learned counsel appearing for the petitioner, would invite our attention to the provisions of Rule 19-I of the Multi-State

Co-operative Societies Rules, 2002 (for short, ‘the Rules of 2002’), which read thus :

“19-I. Preparation of list of members and delegates.--(1) The Returning Officer shall prepare a list of members eligible to vote as it stood on the date, thirty days prior to the date fixed for the poll and publish copies of the list by affixing them on the notice board at the principal place of business of the society and all its branches, if any, not less than fifteen days prior to the date fixed for election and the list shall specify--

(a) the admission number and name of the member, the name of the father or husband and the address of such member in the case of an individual member; and

(b) the admission number, the name of the society, name of the delegate proposed to represent the society, in the case of a member society; the admission number, the name of the society, name of the delegate and the name of the constituency proposed to represent in the case of a member society and the admission number, the name of the delegate and the name of the constituency where a smaller body has been constituted under proviso to sub-section (1) of section 38.

(2) A copy of the list shall be supplied by the society to any member on payment of such fee as may be specified by the board and where no fee has been specified, the person authorised as per bye-laws of the society shall supply such list on payment of rupees ten.

(3) The Returning Officer shall also publish the election programme, as notified by the Authority, specifying the date and time of receipt of nominations, scrutiny of nominations, withdrawal of nominations, the poll, if required, and declaration of results and the election programme shall also be displayed on the notice board of the society and shall also be published in the newspaper circulated in the area of operation of the multi-State co-operative society at least fifteen days prior to the date of election.”

According to the counsel for the petitioner, the election programme issued by the respondent No.1 on 13-6-2024 is contrary to Rule 19-I of the Rules of 2002 and the mandate of the Multi-State Co-operative Societies Act, 2002. He would invited our attention to the date on which the election programme was notified, i.e. 13-6-2024. According to him, on 1-7-2024, the provisional voters' list was declared and the objections were invited from 2-7-2024 to 8-7-2024. He would claim that the final voters' list was published on 9-7-2024. In this background, he would claim that the respondent No.1 is duty-bound to prepare the list of members, who are eligible to vote, as is stood thirty days prior to the date of the poll, which, in this case, is 24-7-2024. As such, according to him, the least that was expected was to publish the provisional voters' list thirty days prior to the date of the poll and that being so, the election programme goes contrary to the scheme of Rule 19-I of the Rules of 2002.

5. As against above, Shri D.V. Chauhan, learned Government Pleader appearing for the respondent No.1; and Shri R.L. Khapre, learned Senior

Advocate appearing for the respondent No.3, would urge that the election programme is in tune with the mandate of Rule 19-I of the Rules of 2002. It is further claimed that even otherwise the election programme has advanced, as the date on which the hearing of the petition is scheduled, the list of validly nominated candidates was published. It is claimed that the petitioner preferred his nomination and his nomination form stood rejected. As such, the contention is that the petitioner is trying to question the election in which he himself has participated without any progress.

6. We have appreciated the submissions.

7. Pursuant to Rule 19-I of the Rules of 2002, reproduced above, the voters' list is required to be published by the respondent No.1 in regard to the election of the respondent No.3-Society in the capacity of the Returning Officer. Such publication of voters' list is governed not only by the provisions of Rule 19-I of the Rules of 2002 but also by the Election Rules for the conduct of the elections of the respondent No.3-Society, which was in accordance with Bye-law No.30(xxviii) of the respondent No.3-Society.

8. Bye-law No.26 of the respondent No.3-Society provides for voting rights, whereas Bye-law No.37 provides for eligibility for election as a Director.

9. Rule 2 of the Election Rules provides for list of members and the said Rule is in tune with the provisions of Rule 19-I of the Rules of 2002.

10. In this background, if we appreciate the decision of the respondent No.1, it can be inferred from the record that the election programme was published on 13-6-2024, whereas the provisional list was published on 1-7-2024 and the final voters' list was published on 9-7-2024. The voting is scheduled on 24-7-2024. As such, it can be noticed that pursuant to the mandate provided under Rule 19-I of the Rules of 2002, the voters' list was published by the Returning Officer fifteen days prior to the date of election, i.e. 24-7-2024, as fifteen days from 9-7-2024 shall be over on 24-7-2024.

11. Even otherwise, whether the provisional voters' list was published, as mandated under Rule 19-I of the Rules of 2002, can be an issue, which can be looked into in the election dispute, particularly when the election has already advanced.

12. The petitioner himself has filed his nomination which stood rejected, subsequent to which he has approached this Court questioning the election programme. The aforesaid issue also warrants this Court not to show indulgence at the behest of the petitioner, he having acquiesced himself in the election proceedings.

13. That being so, the petition lacks merit and stands dismissed. No costs.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)