



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.6782 OF 2025

**PRAKASH S/O KALLAPPA KANTEKURE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Mr. N. P. Patil Jamalpurkar, Advocate for Petitioners.

Mr. D. R. Korade, AGP for Respondent No.1.

Mr. S. K. Kadam, Advocate for Respondent Nos.2 and 3.

Mr. Mahesh S. Deshmukh h/f Mr. U. L. Momale, Advocate for Respondent Nos.4 to 17.

Mr. Umesh Gitte, Advocate for Respondent Nos.19 to 21 and 23 to 30.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 10th JUNE, 2025.**

ORDER:-

1. The petitioners impugn order/communication dated 27.05.2025 issued by Assistant Registrar, Co-operative Societies/Returning Officer/Taluka Co-operative Election Officer, thereby rejecting objections to nomination papers submitted for ensuing election to the Managing Committee of Shri Mahatma Basweshwar Nagari Sahakari Patsanstha Maryadit Murum, Tq. Omerga, Dist. Osmanabad.

2. Shri Mahatma Basweshwar Nagari Sahakari Patsanstha Maryadit Murum is a society duly registered in accordance with provisions of Maharashtra Co-operative Societies Act, 1960 (for short "the Act"). The petitioners are members of Credit Society.

Since establishment of society in the year 2008, elections of Managing Committee are regularly held. Since term of last Managing Committee was to expire, respondent no.3 finalized voter list of members of Society and on 14.05.2025 declared election programme for ensuing election of Managing Committee from the stage of nomination. As per said programme, nomination papers were to be filled in during period from 19.05.2025 to 23.05.2025. The scrutiny of nomination papers was fixed on 26.05.2025. The publication of list of contesting candidates was fixed on 12.06.2025 and date of voting is fixed on 21.06.2025.

3. The respondent nos.4 to 30 submitted their nominations for election as members of Managing Committee. The petitioners raised objections to their nominations on the ground that nominations require to be filed alongwith affidavit containing declaration of candidate that he has not suffered disqualification in terms of Rule 21(3) of Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (for short 'Election Rules, 2014'), however, affidavit submitted by nominated candidates sans compliance of such requirements. The Returning Officer rejected such objections upholding validity of nominations and communicated his decision as to rejection of objections under impugned communication.

4. Mr. N. P. Patil Jamalpurkar, learned Advocate appearing for petitioners submits that Rule 21 of Election Rules, 2014 provides that any person who is not subject to any disqualification as a voter under the Act, Rules or bye-laws may submit his candidature. Such nomination paper shall be accompanied by declaration specified by State Co-operative Election Authority (SCEA), mentioning that candidate is not disqualified under Section 73CA of the Act. By inviting attention of this Court to the declaration submitted by respondent nos.4 to 30 Mr. Patil Jamalpurkar submits that declaration is given as to the non-disqualification as on 21.06.2025 and not as on 22.05.2025 i.e. date of submission of nomination papers. According to Mr. Patil Jamalpurkar, aforesaid defect is fundamental having effect of non-filing of requisite affidavits in terms of Proviso to Sub-rule (3) of Rule 21 of Election Rules, 2014.

5. Mr. N. P. Patil Jamalpurkar would further submit that Returning Officer was under obligation to pass reasoned order on objections submitted by petitioners and communicate his decision. However, impugned communication has been addressed to petitioners without providing copy of order, if any. Mr. Patil Jamalpurkar would further submit that order accepting nominations of respondents needs to be quashed and set aside in exercise of Writ jurisdiction of this Court. In support of his contentions he relies upon judgment of this Court in case of

Murlidhar Rangrao Gaikwad Vs. State Co-operative Election Authority passed in ***Writ Petition No.4072/2025*** dated ***02.04.2025*** and judgment of Division Bench of this Court in case of ***Mr. Sadashiv s/o Shivaji Dhenge Vs. The State of Maharashtra and Others*** passed in ***Writ Petition No.2105/2023*** dated ***08.02.2024***.

6. Per contra, Mr. Kadam, learned Advocate appearing for respondent nos.2 and 3 submits that objections submitted by petitioners were duly considered by Returning Officer and rejected by recording valid reason. He points out endorsement as to rejection of objections made by Returning Officer dated 26.05.2025. According to Mr. Kadam, communication of aforesaid order is made to petitioners, which is referred as impugned order in present Writ Petition. Mr. Kadam, by inviting attention of this Court to Sub-rules of Rule 25 of Election Rules, 2014, submits that Returning Officer is not expected to reject nomination papers, unless there is defect of substantial character or on the ground of any irregularities in respect of nomination papers.

7. Mr. Deshmukh, learned Advocate appearing for nominated candidates adopts submission of Mr. Kadam and contends that upon bare perusal of declaration submitted by respondent nos.4 to 30 alongwith verification, it is evident that sufficient compliance of

requirements under Sub-rule (3) of Rule 21 read with Proviso thereunder was made.

8. Having considered submissions advanced by learned Advocates appearing for respective parties, before delving into controversy raised in this petition, it is necessary to make reference to relevant provision of Maharashtra Co-operative Societies (Election to Committee) Rules, 2014. Rule 21 deals with presentation of nomination paper and requirements for valid nominations. Sub-rule (3) of Rule 21 alongwith Proviso thereunder reads thus:

“(3) Any person who is not subject to any disqualification as a voter under the Act, these rules or by-laws and whose name is entered in the list of voters for the constituency, for which the candidate is nominated, may subscribed as proposer and seconder:

Provided** that, the nomination paper shall be accompanied by ¹[a declaration], specified by SCEA, mentioning the candidate is not disqualified under section 73CA of the Act ²[].”*

9. Rule 25 deals with scrutiny of nomination papers, which reads thus:

“25. Scrutiny of nomination papers.—

(1) On the date fixed, for the scrutiny of nomination papers under rule 18, the candidates, one proposer of each candidate duly authorized in writing by each candidate, may attend at the time and place appointed in this behalf, and the Returning Officer shall give or cause to give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered as required by rule

20. No other person shall be allowed to attend the scrutiny of nomination.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary reject any nomination on any of the following grounds, that is to say :—

(a) that the candidate is disqualified for being chosen to fill the seat by or under the Act, the Rules and the bye-laws ;

(b) that the proposer or seconder is disqualified from subscribing a nomination paper;

(c) that there has been a failure to comply with any of the provisions of rule 21 or 23;

(d) that the signature of the candidate or the proposer or the seconder on the nomination paper is not genuine.

(3) Nothing contained in clause (c) or (d) of sub-rule (2) shall be deemed to authorize the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under rule 18, and shall not allow any adjournment of the proceedings, except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control :

Provided *that, in case any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it, not later than the next day before the publication of list of valid*

nomination and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, he shall record in writing, a brief statement of his reasons for such rejection, and a copy of such statement shall be immediately supplied on demand to the candidate or to the proposer concerned. The copy of such statement shall be sent invariably to the SCEA or District Co-operative Election Officer, as the case may be."

10. In addition to aforesaid Rules, State Co-operative Election Authority (SCEA) framed instructions dated 15.06.2018 for scrutiny of nomination papers. Clause C(ii)(1) and (7) of said instructions provides that nomination can be rejected in case candidate fails to file requisite affidavit or such affidavit is incomplete or sans requisite details. In light of aforesaid statutory provisions and instructions, it would be apposite to find out as to whether valid declaration has been submitted by respondent nos.4 to 30 alongwith their nominations, particularly as to disqualification as on the date of submission of nomination forms.

11. Pertinently, form of nomination paper has been prescribed under Rules in FORM E-5 after signature of candidate, his proposer and seconder the format of declarations to be made by candidates is provided. The relevant declaration as to disqualification prescribed under Section 73CA of the Act reads thus:

“Declaration by Candidate

I hereby declare that I do not incur any disqualification under Section 73CA of Maharashtra Co-operative Societies Act, 1960.”

12. Now turning back to nomination submitted by respondent nos.4 to 30, it can be observed that in first paragraph they mentioned that they are submitting nomination on 21.06.2025 for election of Society. However, there is verification to the contents of application and date of submission of nomination is mentioned as 22.05.2025. It is not in dispute that respondent nos.4 to 30 have submitted their nomination on 22.05.2025, wherein necessary stipulation that they did not incur disqualification in terms of Section 73CA has been incorporated. Therefore, merely mentioning of date as 21.06.2025 in first paragraph of declaration cannot be considered as substantive or fundamental defect in nomination. If declaration is read as whole, it suggest that respondent nos.4 to 30 have made requisite declaration on 22.05.2025 while submitting nomination form. Similarly, contents of declaration are verified on 22.05.2025. It is, therefore, evident that there is compliance of requirement of Rules. The harmonious reading of nomination form with declaration clearly spells out that respondents have made declaration that they were not subjected to disqualification as on date of submission of nomination papers.

13. Reply affidavit filed on behalf of respondent nos.2 and 3 and documents appended thereto clearly suggests that Returning

Officer has consciously applied his mind to the contents of nomination form and declarations given thereunder while dealing with objections submitted by petitioners and rightly uphold its validity and rejected objections of petitioners.

14. In result, Writ Petition is devoid of merit. Hence, dismissed.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/June-2025