



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.7385 OF 2025**

Pravin s/o Laxman Lokhande

Age: 38 years, Occu.: Agri.

R/o. Deodaithan, Tq. Shrigonda,

Dist. Ahilyanagar.

..Petitioner

Versus

1. Divisional Joint Registrar Co-operative,
Societies Nashik Division Nashik.
2. District Registrar Co-operative Societies,
Ahilyanagar, Dist. Ahilyanagar.
3. Agricultural Produce Market Committee
Shrigonda, Tq. Shrigonda, Dist. Ahilyanagar,
Through its Secretary.
4. Sajan s/o Sadashiv Pachpute,
Age: 40 years, Occu. Agri.,
R/o. Shrigonda, Tq. Shrigonda,
Dist. Ahilyanagar.

..Respondents

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Mr. M. S. Deshmukh h/f Mr. R. R. Karpe, Advocate for Petitioner.

Mr. R. N. Dhorde, Senior Advocate i/by Mr. V. R. Dhorde, Advocate
for Respondent No.4.

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CORAM : S. G. CHAPALGAONKAR, J.

Reserved On : 24th JUNE, 2025.

Pronounce On : 15th JULY, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of the parties, matter is taken up for final hearing at admission stage.
2. The petitioner impugns order dated 06.06.2025 passed by respondent no.1-Divisional Joint Registrar Co-operative Societies,

Nashik Division, thereby rejecting stay application filed by petitioner against order of disqualification dated 23.05.2025 passed by respondent no.-2-District Registrar Co-operative Societies, Ahilyanagar.

3. The petitioner has been elected as Chairman of respondent no.3-Agricultural Produce Market Committee, Shrigonda (for short “APMC, Shrigonda”) in the year 2023. The proceeding under Rule 10(3) of Election Rules, 2017 was initiated seeking disqualification of petitioner before respondent no.2, firstly on the ground that petitioner has withdrawn cash amount of Rs.2,66,730/- for his personal use on 10.02.2024 from Sub Market of Kashti by pressurizing employees, secondly, petitioner has illegally obtained record of Market Committee from Secretary Mr. Dilip Debare, contrary to Rule 106 of Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 and Rules of 1967 (for short “APMC Act 1963 and APMC Rules, 1967”) and thirdly, petitioner called meeting of APMC, Shrigonda under his own signature by keeping Secretary in dark. It is accordingly alleged that petitioner has frequently violated bye-laws as such incurred disqualification in term of Rule 10(1)(i) of Election Rules, 2017.

4. The Assistant Registrar conducted enquiry into allegations and submitted his report dated 02.04.2025 to respondent no.2, who

issued notice dated 02.05.2025 and called upon petitioner to appear before him to response allegations made by respondent no.4 in his complaint. The petitioner caused appearance and denied allegations made in complaint contending that he has never withdrawn amount of Rs.2,66,730/- as alleged. Assistant Registrar in his report dated 02.04.2025 accepted petitioners defence. Looking to misconduct, charge of Secretary Mr. Dilip Debare was withdrawn as per committee's Resolution dated 25.01.2001. Since Secretary had failed to conduct meeting of APMC, Shrigonda, petitioner and other Directors had called meeting in absence of Secretary so as to to comply mandate of Bye-Laws No.33(1). As such, petitioner has not violated any provisions of Law, Rules or Bye-Laws. It is further pointed out that in compliance with provisions of Rule 107(1) of APMC Rules, 1967, cash amount is deposited by petitioner between 07.02.2025 to 11.02.2025 in bank account maintained with DCC Bank, which is not been mentioned by Enquiry Officer in his report.

5. The respondent no.2 after considering rival contentions passed disqualification order dated 23.05.2025 against petitioner observing that petitioner has kept in hand cash of APMC, Shrigonda contrary to Section 36(2) of APMC Act, 1963 read with Rule 107 of APMC Rules, 1967. Similarly, petitioner has violated Rule 106 by illegally taking possession of record from Secretary

and appointment of in-charge Secretary was contrary to Section 2(r) of APMC Act, 1963 r/w. Rules 92 and 108 of APMC Rules, 1967.

6. The petitioner assailed aforesaid order of disqualification in Appeal before respondent no.1 as per Rule 10(5) of Election Rules, 2017, so also filed application seeking stay to disqualification order dated 23.05.2025. However, respondent no.1 rejected petitioner's stay application vide impugned order dated 06.06.2025.

7. Mr. Deshmukh, learned Advocate appearing for petitioner vehemently submits that petitioner is democratically elected Director of APMC, Shrigonda with statutory tenure of 5 years to hold post. He has been subjected to disqualification proceeding on false and frivolous grounds in pursuance to notice dated 02.05.2025, purportedly issued under Rule 10(3) of Election Rules, 2017. Mr. Deshmukh submits that respondent no.4, while holding post of Secretary acted contrary to the interest of APMC, Shrigonda, therefore, he was suspended vide Resolution passed by Committee. Enraged by such action, ill-motivated complaint has been filed against petitioner. The respondent no.2 without appreciating evidence on record and by expanding scope of complaint made by respondent no.4, issued illegal notice dated 02.05.2025 against petitioner and passed impugned order, which is presently subject matter of statutory Appeal before respondent

no.1. In this background, application for stay to impugned order ought to have been positively considered. Mr. Deshmukh further submits that Rule 92 of APMC Rule, 1967 confers power with Chairman for supervision, control and execution of activities of Market Committee. The Market Committee is empowered under Rules 102 and 104 to impose penalty on employees. In exercise of such powers, action was taken against Secretary. Later on, Secretary was restored with his charge. According to Mr. Deshmukh, finding as to violation of Section 36(2) of APMC Act, 1963 is also based on erroneous appreciation of material, so also contrary to enquiry report submitted by Assistant Registrar. According to Mr. Deshmukh, though Rule 106 deals with powers and function of Secretary, he is under duty to make available record to Chairman and Elected Committee and if Secretary absents himself unauthorizely, Chairman and Committee are justified in adopting new proceeding books for passing Resolution and confirming Minutes of earlier Meeting. According to Mr. Deshmukh, all such issues require detailed consideration by the Appellate Authority before the order is given finality.

8. Per contra, Mr. Dhorde, learned Senior Advocate appearing for respondent no.4 invites attention of this Court to observations made in enquiry report as well as order of disqualification and points out that on 10.02.2024 petitioner took Rs.2,66,730/- from

cash received by APMC, Shrigonda for personal use, as evident from voucher No.199 and cash book entry. However, to suppress aforesaid fact, petitioner forged record and created parallel cash books and attempted to conceal misappropriation. Mr. Dhorde has also invited attention of this Court to affidavits filed by Mr. Arun Dhawale, in-charge of Kashti Sub Yard and submits that amount of Rs.10,97,044/- was due from petitioner as on 31.05.2025. Apart from this, he submits that petitioner illegally possessed record of APMC, Shrigonda by using force, contrary to provisions of Act, Rules and Bye-Laws. Mr. Dhorde would point out that in fact, petitioner admitted retention of cash and possession of record, which ought to have been in custody of Secretary. Similarly, petitioner recorded Minutes in new proceeding. As such, petitioner's actions like committing financial irregularities, misappropriation, illegal possession of record and illegal issuance of Minutes of agenda are inconsistent with relevant provisions of APMC Act, 1963, the Rules and Bye-Laws. Hence action of disqualification against petitioner by Competent Authority is justified.

9. Having considered submissions advanced on behalf of respective parties and on perusal of impugned order, it can be observed that petitioner is duly elected Chairman of respondent no.3-AMPC, Shrigonda and subjected to disqualification under

Rule 10(3) of Election Rules, 2017 on complaint/application submitted by respondent no.4. The gist of allegations against petitioner is that he has illegally withdrawn cash amount of Rs.2,66,730/- for personal use on 10.02.2024, forceably possessed record of Market Committee from custody of Secretary and conducted meetings of APMC, Shrigonda by illegally issuing Agenda under his signature keeping Secretary in dark. It appears that, on the basis of aforesaid allegations/grounds, disqualification of petitioner was proposed by respondent no.4. However expanded inquiry was conducted by Assistant Registrar on many more grounds and enquiry report dated 02.04.2025 was submitted. Ultimately, after considering rival submissions, disqualification order is passed by respondent no.2, which is now subject matter of Appeal filed under Rule 10(5) of Election Rules, 2017 before Respondent No. 1. An application for grant of ad-interim stay to disqualification order pending such Appeal was filed by petitioner however same has been rejected vide impugned order.

10. Bare look to Scheme of Act and Rules framed thereunder alongwith Bye-Laws stipulates that Chairman, Committee and Secretary are bestowed with specified powers and duties to run business of Market Committee. Chapter VI deals with Market Funds. Section 36 provides for custody and investment of market funds. Rule 92 deals with functions of Chairman. Rule 100 deals

with suspension of employees. Rule 106 deals with power of Secretary and specifies that he is custodian of record. Rule 108 (3) (i) deals with expenditures. The provisions of bye-laws supplements Rules. It appears that, petitioner is subjected to disqualification proceeding under Rule 10(3) of Election Rules, 2017 alleging breach of various provisions. The respondent no.2 is Competent Authority to declare such disqualification. Looking to allegations against petitioner and his defence, multiple questions of law and facts are involved in present matter. Although respondent no.2 for the reasons recorded in order concluded that petitioner has incurred disqualification and found him guilty of misconduct, fact remains that order of disqualification would be final on decision by Director in Appeal. Upon decision of Appellate Authority, person who is disqualified shall cease to hold office from the date of decision. Thereafter, Market Committee is expected to fill up vacancy by co-opting a person eligible for being elected as a member as provided under Section 18 of APMC Act, 1963. In backdrop of legal position discussed above, the Appellate Authority is expected to stay execution of disqualification order pending in appeal and decide appeal expeditiously.

11. It is trite that, removal of elected representative by administrative action has to be based on strong and impeccable material and cannot be founded on probabilities. The Appellate

Authority will have to consider all the aforesaid aspects and pass a reasoned order after granting opportunity of hearing to all concerned. In this backdrop, without much delving in to merits of contentions, it is in fitness of things that during pendency of appeal before Director, disqualification order is kept in abeyance.

12. Hence following order is passed:

ORDER

- a. Writ Petition is allowed in terms of prayer Clause (B).
- b. The Appellate Authority to decide Appeal as expeditiously as possible and in any case, within period of three months from the date of this order. Parties to co-operate.
- c. Till decision on appeal, disqualification order passed against petitioner be kept in abeyance.
- d. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE