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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4422 OF 2025

Laxman Ramchandra Mahadik ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

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Mr. Kalpesh U. Patil for the petitioner.
Smt. M.S. Srivastava, AGP for respondent No.1-State.
Mr. Dilip Bodake for respondent Nos.2 & 3.

CORAM : AMIT BORKAR, J.

DATED : APRIL 4, 2025

P.C.:

1. The Returning Officer, by the impugned order, has accepted the nomination paper of respondent No.4 for the ensuing elections.
2. The petitioner, being an objector, raised an objection to the candidature of respondent No.4, contending that respondent No.4 incurred a disqualification from contesting the election on the ground that he was a salaried employee of another Co-operative Society. In support of the said objection, the petitioner relied upon the certificate produced by respondent No.4 himself, issued by the concerned Co-operative Society, wherein it is stated that respondent No.4 is working as a Wireman with the said Society,

and that the Society has no objection to his contesting the election.

3. The Returning Officer considered the said objection and recorded a finding that the post held by respondent No.4 was of a temporary nature. It is well settled that the acceptance or rejection of a nomination paper by the Returning Officer, unless patently illegal or ex facie perverse, cannot ordinarily be interfered with in the limited jurisdiction under Article 226 of the Constitution of India. The issue as to whether respondent No.4 was disqualified from contesting the election involves disputed questions of fact, particularly with regard to the nature and tenure of his employment, which would require leading of evidence. Where disputed questions of fact arise, the proper remedy is to agitate such issues by way of an election petition.

4. Furthermore, under Section 91 of the Maharashtra Co-operative Societies Act, 1960, read with Rule 81 of the Maharashtra Co-operative Societies Rules, 1961, any dispute relating to the validity of an election must be adjudicated only through an election petition.

5. In the present case, the Returning Officer, having found that the post held by respondent No.4 was temporary in nature, and no patent illegality or manifest error being demonstrated on the face of the record, the acceptance of the nomination paper cannot be said to be so arbitrary or illegal as to warrant interference under Article 226 of the Constitution at this stage.

6. Hence, in view of the settled position of law and by keeping all contentions raised by the petitioner on merits expressly open to

be agitated in an election petition under Section 91 of the Maharashtra Co-operative Societies Act, 1960, the writ petition stands disposed of. No costs.

(AMIT BORKAR, J.)