

Shabnoor

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

WRIT PETITION NO.5516 OF 2025

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Milind Maryappa Mule ... Petitioner
V/s.
Indumati Parmanand Algonda & Ors. ... Respondents

Ms. Rekha Musale i/b Mr. Balaji P Shinde, for
petitioner.

Mr. Sarang Satish Aradhya i/b Mr. Shantanu Gurav, for
respondent No.1.

Mr. O. A. Chandurkar, Addl. GP a/w Mr. P V Nelson
Rajan, AGP for State – respondent.

CORAM : AMIT BORKAR, J.

DATED : APRIL 24, 2025

P.C.:

1. The present writ petition under Article 226 of the Constitution of India calls in question the legality and propriety of an order passed by the Appellate Authority, whereby the appeal preferred by the petitioner challenging the acceptance of nomination papers of the respondent has been dismissed.

2. The factual backdrop is not in serious dispute. The respondent submitted his nomination for election to the managing committee of the cooperative society. The Returning Officer, upon scrutiny, accepted the nomination. The petitioner, it appears, did not raise any objection at the stage of scrutiny before the

Returning Officer, nor did he place on record any contemporaneous or conclusive material that would prima facie establish the disqualification alleged to have been incurred by the respondent.

3. It is the grievance of the petitioner that the respondent, at the time of filing of nomination, was a defaulter within the meaning of the relevant provisions of the Maharashtra Cooperative Societies Act, 1960 and the Rules framed thereunder, and hence, his nomination ought to have been rejected by the Returning Officer.

4. This contention, though otherwise serious in nature, is to be examined through the prism of settled legal principles. The law is well-established that a Returning Officer, at the stage of scrutiny, is not conferred with plenary powers of investigation akin to those of a civil court or an election tribunal. His jurisdiction is confined to a summary scrutiny of the nomination papers with reference to such facts and documents as are apparent on the face of the record or as are brought to his notice through objections raised by the rival parties.

5. In the absence of any objection raised by the petitioner at the stage of scrutiny, or any prima facie documentary material pointing to an existing disqualification, the Returning Officer cannot be faulted for having accepted the nomination of the respondent. The duty of the Returning Officer is not inquisitorial, and unless the defect or disqualification is apparent from the nomination form or accompanying documents, or substantiated by cogent objections

and supporting material, the nomination cannot be rejected.

6. The defect as alleged by the petitioner — that the respondent is a defaulter — is a matter that cannot be conclusively determined merely by perusal of the nomination form. It necessarily involves determination of fact and may require examination of accounts, society records, or other collateral evidence. Such disputed questions of fact are not amenable to summary adjudication at the stage of nomination scrutiny, and more appropriately fall within the domain of an election dispute.

7. The Hon'ble Supreme Court, in *Manda Jaganath v. K.S. Rathnam* [(2004) 7 SCC 492], has drawn a clear distinction between rejection and acceptance of nomination papers, holding that while wrongful rejection has the effect of curtailing the right to contest and must, therefore, be strictly scrutinised, acceptance of nomination is not to be interfered with lightly unless there is a clear legal bar, apparent on the face of the record.

8. The election process, once initiated, must be allowed to proceed unhindered. Judicial interference at the pre-election stage is to be exercised sparingly and only in rarest of rare cases where illegality is patent and incapable of correction through the election petition mechanism post-election.

9. The petitioner, if aggrieved by the continued inclusion of the respondent in the electoral process, or by his eventual election to the committee, is not without remedy. The law provides for an election petition to be filed under Provisions of APMC Act and Rules, wherein all issues relating to disqualification, including on

the ground of being a defaulter, can be raised, agitated, and determined on merits upon appreciation of evidence.

10. Accordingly, this Court refrains from entering into the merits of the disqualification alleged by the petitioner. All contentions raised by the petitioner in regard to the eligibility and disqualification of the respondent are expressly kept open to be raised, if so advised, in an election petition before the appropriate forum. The writ petition stands disposed of in the above terms.

(AMIT BORKAR, J.)