

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

WRIT PETITION NO. 70 OF 2024

Raghunath Gangadhar Fadol and Ors

... Petitioners

Versus

Vishwas Chintaman Nagare and Ors

... Respondents

**WITH
WRIT PETITION NO. 71 OF 2024**

Raghunath Gangadhar Fadol and Ors

... Petitioners

Versus

Dilip Shankar Thete And Ors

... Respondents

Mr. Surel Shah, Sr. Advocate i/b Mr. Sachint Gite for the Petitioners.

Mr. Kishor Patil i/b Mr. Pratik B. Rahade for Respondent No.1.

Mrs. Vrishali Raje, AGP for Respondent Nos. 1 to 4-State.

CORAM : SANDEEP V. MARNE, J.

DATE : 24 MARCH 2025.

P.C. :

1) **Rule** in both the Petitions. Rule is made returnable forthwith. With the consent of the learned counsel appearing for parties, the Petitions are taken up for hearing and disposal.

2) Writ Petition No. 71 of 2025 is filed challenging the order dated 27 December 2023 passed by the Divisional Joint Registrar, Co-operative Societies, Nashik allowing the Revision

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Application preferred by Respondent No.1 and remanding the proceedings to the Deputy Registrar for passing formal order of disqualification against the Petitioners from being Directors of the Co-operative Society.

3) Writ Petition No. 70 of 2024 is filed by a different Petitioner challenging a separate order dated 27 December 2023 passed by the Divisional Joint Registrar allowing the Revision preferred by Respondent No.1 and remanding the proceedings before the Deputy Registrar for passing a formal order of disqualification against the Petitioner.

4) I have heard Mr. Shah, the learned senior advocate appearing for Petitioners and Mr. Patil, the learned counsel appearing for Respondent No.1 in both the Petitions.

5) The first ground on which the impugned orders dated 27 December 2023 passed by the Divisional Joint Registrar are challenged is the issue of jurisdiction directly exercised by the Deputy Registrar under provisions of Rule 66 of the Maharashtra Co-operative Societies (Election to Committee), Rules 2014 (**Election Rules, 2014**). It appears that the Respondent No.1 in both the Petitions had directly approached the Deputy Registrar seeking disqualification of the Petitioners. The Deputy Registrar had rejected the objection of Respondent No.1 in Writ Petition No. 70 of 2024 on the ground of lack of *locus* as the said Respondent was found to be not even a voter in respect of the election of the society. So far as Respondent No.1 in Writ Petition No. 71 of 2024 is concerned, he also directly approached the Deputy Registrar seeking

disqualification of the Petitioners. His objection was directly entertained by the Deputy Registrar on merits but it was found that the election expenses were submitted by the Petitioners and accordingly the objection was rejected.

6) According to Mr. Shah the Deputy Registrar did not have jurisdiction to directly entertain an application for disqualification considering the scheme of Rules 65, 66 and 67 of the Election Rules 2014.

7) Rules 65, 66 and 67 of the Election Rules 2014 provides thus:

65. Account of election expenses.

(1) Every candidate at an election shall either by himself or by his Election Agent keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his Election Agent between the date of the order calling the election and the date of declaration of the result thereof, both dates inclusive.

(2) The account shall contain such particulars as are specified in rule 67.

(3) The total of the said expenditure shall not exceed such amount as may be notified by the SCEA.

(4) Every contesting candidate at an election shall, lodge with the District Co-operative Election Officer through the Returning Officer an account of his Election expenses within the time and in the manner in rule 67.

Provided that, the provisions of this rule shall not be applicable to type "D" societies.

66. Disqualification for failure of lodge account of election expenses.

(1) If the District Co-operative Election Officer is satisfied that a person,—

(a) has failed to lodge an account of election expenses within the time and in the manner required by the last preceding section, and

(b) has no good reason or justification for the failure, District Co-operative Election Officer [or Taluka or Ward Co-operative Election Officer, as the case may be, shall submit report to the Registrar and after receipt of such report, the concerned Registrar after providing an opportunity of being heard] shall, by order declare him to be disqualified for being elected as, and for being, a member

of the committee of any society, and any such person shall be disqualified for a period of three years from the date of the order.

67. Particulars of account of election expenses.

(1) The account of election expenses to be kept by a candidate or his election Agent under rule 65 shall contain the following particulars in respect of each item of expenditure from day to day, namely :—

- (a) The date on which the expenditure was incurred or authorized;
- (b) the nature of the expenditure (as for example, travelling, postage or printing and the like);
- (c) the amount of the expenditure :—
 - (i) the amount paid;
 - (ii) the amount outstanding;
- (d) the date of payment;
- (e) the name and address of the payee;
- (f) the serial number of voucher, in the case of amount paid;
- (g) the serial number of bills, if any, in case of amount outstanding;
- (h) the name and address of the person to whom the amount outstanding is payable.

(1A) Every contesting candidate shall lodge an account of election expenses within the period of 60 days from the date of declaration of the result of the election with the Returning Officer.

(2) All vouchers shall be lodged along with the account of election expenses, arranged according to the date of payment and serially numbered by the candidate or his Election Agent and such serial numbers shall be entered in the account under item (f) of subrule (1).

(3) It shall not be necessary to give the particulars mentioned in item (c) of sub-rule (1) in regard to items of expenditure for which vouchers have not been obtained.

8) Thus, under provisions of Rule 65, every contesting candidate is required to submit election expenses within a period of 60 days as provided under Rule 67 to the District Co-operative Election Officer. If such contesting candidate fails to deposit the account of election expenses within the period specified under Rule 67, the District Co-operative Election Officer is required to make a

report to the Registrar. While making such report, the District Cooperative Election Officer conducts an adjudicatory function by verifying as to whether the contesting candidate had a good reason or justification for failure to submit account of election expenses within the specified time. It is only in a case where the District Cooperative Election Officer arrives at a finding that the contesting candidate did not have good reason or justification for such failure, that he can make a report to the Registrar, who thereafter conducts the disqualification proceedings. Thus under the scheme of Rule 66, direct entertainment of an objection for disqualification by the Registrar is clearly inconceivable. This Court in ***Sandesh Baccharam Bhapkar and others Vs. State of Maharashtra through Secretary, Ministry of Cooperation and others***¹ has discussed the scheme of Rules 65, 66 and 67 the Election Rules, 2014 and has held in paragraph 27 and 28 as under:

27. However, perusal of Rule 66 of the Election Rules shows otherwise. Rule 65 mandates lodging of accounts of election expenses as specified under Rule 67, which mandates lodging of such account within a period of 60 days from the date of declaration of results of the election. Rule 66 deals with a situation where there is failure on the part of any person to lodge accounts of election expenses within the time specified in Rule 67. To initiate proceedings under Rule 66, the District Cooperative Election Officer is required to first satisfy himself that a person has failed to lodge accounts of election expenses within the time limit. Once he reaches to satisfaction about failure to lodge accounts within 60 days, he is required to examine whether such a person had any good reason or justification for such failure. After examining the justification offered by such person, the District Cooperative Election Officer or the Taluka Cooperative Election Officer is required to submit his report to the Registrar. The Registrar is thereafter required to provide an opportunity of hearing to the person concerned before proceeding to pass an order of disqualification. There is a statutory scheme under Rule 66.

28. Thus under clause (b) of Rule 66, the District Cooperative Election Officer is empowered to examine the reasons and justifications pleaded by the person accused of delay in lodging accounts of election expenses. The fact that the District Cooperative Election Officer is empowered to examine the reasons or justifications for delay would also mean that he is empowered to accept the reasons/justification for delay. In a given case therefore, even though there might be a delay in lodging accounts of election expenses, the District Cooperative Election Officer may find that the person has given cogent reasons or justification for failure to lodge accounts within stipulated time. It

¹ 2023 SCC OnLine Bom 2126

therefore cannot be stated that there is no provision for condonation of delay under Rule 66. In *Janabai w/o Gondu Mahajan v. District Co-Operative Election Authority and Divisional Joint Registrar, Co-Operative Societies, Nashik*, this Court has negated the contention of absence of power to condone delay under Rule 66. This Court held in paras 11, 12 and 13 of the Judgment as under:—

“11. The bare perusal of the above Rules would indicate that every candidate has to keep a separate and correct account of all the election expenditure as per the particulars provided in Rule 67 and that the expenditure has to be submitted within time (60 days) from the date of the elections. In the event of delay, the petitioner has to explain satisfactorily to the authority, entitled to receive the explanation election expenditure, as to why the delay has occurred. The Returning Officer, to whom the election expenditure was submitted, has submitted a Report, stating therein, that the explanation given by the petitioner should be accepted. Along with explanation, he has filed the report respondent no. 1.

12. In this case, the Limitation Act is not made applicable, since, the Election Rules, 2014 itself provides that the expenditure, if, submitted belatedly, can be accepted, if, it is supported by good reasons.

13. The Judgment of Ganesan (supra) relied upon by respondent No. 3 is not applicable in the instant case as Rule 66(1)(b) of the Election Rules, 2014 specifically provides for the acceptance of election expenditure after the stipulated period if good reason is shown for submitting the expenditure beyond the stipulated period.”

9) In my view, therefore the Registrar could not have directly entertained an application preferred by Respondent No.1 in both the Petitions for deciding the question of disqualification. It was District Co-operative Election Officer, who alone could have conducted enquiry into availability of good reason or justification under provisions of Rule 66(1)(b) and the said jurisdiction cannot be used by the Deputy Registrar. In my view, therefore direct entertainment of applications for disqualification by the Deputy Registrar in the present case was without jurisdiction.

10) The second ground urged by Mr. Shah is that the requirement of filing account election expenses is applicable only where there is contested election. He would submit that in the

present case, the elections took place uncontested. He would particularly harp on used of the word 'every contesting candidate' under sub-rule (4) of Rule 65 and sub-rule (1A) of Rule 67 to buttress his contention that the requirement of lodging account of election expenses cannot take place in a case where the elections take place unopposed.

11) I find considerable force in the submissions of Mr. Shah. This is further borne out by order issued by State Co-operative Election Office on 15 January 2024 under which it is directed that there is no requirement for filing of account of election expenses in respect of candidate who is elected unopposed.

12) The third ground urged by Mr. Shah is about locus of Respondent No.1 in WP 70 of 2024 to file Revision before the Divisional Joint Registrar challenging the order passed by the Deputy Registrar. He would submit that once the Deputy Registrar satisfied himself about filing of account of election expenses, it was impermissible for Respondent No.1 in Writ Petition No. 71 of 2024, who is merely a voter, to file Revision Application before the Divisional Joint Registrar so far as Respondent No.1 in Writ Petition No. 70 of 2024 is concerned is not even voter in respect of election of the society. Reliance is placed on judgment of co-ordinate bench of this Court in ***Janabai w/o. Gondu Mahajan Vs. District Co-operative Election Authority and the Divisional Joint Registrar and others***² in which it is held as under:

25. In view of the law laid down in the case of Raju s/o. Ramdhan Chouthmal (supra) only the aggrieved party who's rights are directly affected i.e. candidates who have contested the elections

² 2023 DGLS (Bom.) 1596

has the locus to challenge the orders passed by the election authorities. The submission of an election expenditure is between, the election authority and the candidate submitting the election expenses and thus Respondent No.3, who is not even a voter cannot intervene in the said process. Applying the law laid down in the case of Ravi Yashwant Bhoir (supra), Respondent No.3 can bring it to the notice of Respondent No.1 that election expenditure is not submitted by an elected candidate. However, he cannot intervene in the process and become a party to the process of submitting and scrutiny of the election expenditure. The cause title of the impugned order indicates that Respondent No.3 is one the Petitioner in the proceedings before Respondent No.1 and in view of the law laid down in the case of Ravi Yashwant Bhoir (supra), Respondent No.3 would not be entitled to claim the status of a litigant in the matter.

13) In my view for all the three reasons noted above, the orders passed by the Divisional Joint Registrar on 27 December 2023 are clearly unsustainable. Petitions accordingly succeed. Order dated 27 December 2023 passed by the Divisional Joint Registrar are set aside. Writ Petitions are allowed in above terms. Rule is made absolute. There shall be no orders as to costs.

[SANDEEP V. MARNE, J.]