

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8118 OF 2024

Madan Shankar Gaikar

...Petitioner

V/s.

District Co-operative Election
Officer and District Deputy
Registrar, Co-operative Society,
Thane and Ors.

...Respondents

Mr. Chandrakant Yadav *for the Petitioner.*

Mr. Dilip Bodake *for Respondent Nos.1 & 4.*

Ms. A.A. Nadkarni, *AGP for Respondent -State.*

Mr. Onkar A. Wable *i /b. Mr. Milind Deshmukh for Respondent
Nos.5 to 11 and 13 to 16.*

CORAM: SANDEEP V. MARNE, J.

Dated: 7 April 2025.

P.C.:

1) The Petition challenges order dated 16 February 2024 passed by the District Co-operative Election Officer, Thane, dropping the show cause notice under Rule 66 of the Maharashtra Co-operative Societies (Election to Committee) Rules 2014 (**MCS Rules**).

2) I have heard the learned counsel appearing for the parties and have considered the submissions canvassed by them.

3) The elections to the Society were held on 28 December 2021 and the results were also declared on the same day. It is the contention of the Petitioner that contesting Respondents, who were declared elected, did not lodge account of election expenses within a period of 60 days of declaration of result under sub-rule (1A) of Rule 67 of the MCS Rules. Reliance is placed on show cause notice dated 31 May 2023 issued by the Assistant Registrar, Co-operative Societies and show cause notice dated 7 December 2023 issued by the District Co-operative Election Officer. It is contended that the elected candidates filed accounts of election expenses only after the proceedings were closed by District Co-operative Election Officer after conduct of hearing. The expenses were forwarded by the Returning Officer to the District Co-operative Election Officer on 22 November 2023.

4) There are multiple reasons why this Court is not inclined to interfere in the impugned order dropping the disqualification proceedings at this stage. As observed above, the results were declared on 28 December 2021 and by now, period of more than 3 years has elapsed from election of contesting Respondents. In the process, the elected candidates have already completed more than half of their tenure. In less than two years, fresh elections would be held in December 2026.

5) Also, if strict adherence to Rule 66 of the Election Rules was to be made, the District Co-operative Election Officer was required to first examine the justification for failure to lodge accounts of election expenses within the stipulated time and then submit a report to the Registrar for taking action for disqualification. In the present case, there is nothing to indicate that such a report was ever made by the Election Officer. Petitioner himself was very late in filing the complaint, which was filed on 21 July 2023, after one and half years of election of candidates. The show cause notices issued by the Assistant Registrar and the District Co-operative Election Officer are also belated as the same were issued on 31 May 2023 and 7 December 2023 respectively. In my view therefore, there is no strict compliance with provisions of Rule 66 of the MCS Rules.

6) Contesting Respondents are after all democratically elected candidates. They are sought to be unseated on technical plea of failure to file accounts of election expenses within stipulated time. The proceedings for their disqualification were initiated after long delay. Considering the facts and circumstances of the case, I am not inclined to exercise extraordinary jurisdiction under Article 227 of the Constitution of India. In that view of the matter, the Petition is **rejected**.

[SANDEEP V. MARNE, J.]