

Shabnoor

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

WRIT PETITION NO.4831 OF 2025

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Atul Sukhdev Kotwal

... Petitioner

V/s.

The District Election Officer Alias
District Registrar Cooperative Credit
Society & Ors.

... Respondents

Mr. Chetan Nagare for petitioner.

Mr. Hamid D. Mulla, AGP for State – respondent.

Mr. P. S. Dani, Sr. Advocate i/b Mr. Abhijit B. Kadam for
respondent Nos.7 to 24.

CORAM : AMIT BORKAR, J.

DATED : APRIL 15, 2025

P.C.:

1. The present petition under Article 226 of the Constitution of India lays challenge to the order passed by the Returning Officer appointed for conducting elections of the managing committee of the subject co-operative society, whereby the objection raised by the petitioner to the acceptance of nomination forms submitted by respondent Nos.7 to 24 came to be rejected. The principal ground urged by the petitioner in support of his objection was that respondent Nos.7 to 24 had not complied with the mandatory requirement of payment of charges as prescribed under the relevant bye-laws of the society, and as such, were ineligible to contest the elections.

2. Per contra, learned Senior Advocate Shri Dani appearing on behalf of respondent Nos.7 to 24, submitted that the requisite amount, as alleged by the petitioner, had indeed been paid and, therefore, there was no default warranting rejection of their nomination forms. It was further submitted that the objection raised by the petitioner was based on a disputed question of fact, particularly with respect to whether respondent Nos.7 to 24 were personally present at the time of obtaining nomination papers and the mode and timing of payment of the required charges. It is, therefore, contended that such a disputed factual matrix cannot be adjudicated in the limited supervisory jurisdiction under Article 226 of the Constitution of India, and that an efficacious alternative remedy under Section 91 of the Maharashtra Co-operative Societies Act, 1960, is available to the petitioner by way of an election petition.

3. On a careful consideration of the rival contentions and upon perusal of the material placed on record, this Court is of the view that the challenge mounted by the petitioner essentially raises disputed questions of fact touching upon the legality of acceptance of nomination forms of respondent Nos.7 to 24. The scope of interference at the pre-election stage, particularly in relation to acceptance or rejection of nomination papers, is well circumscribed by the settled legal position that such objections, involving adjudication of factual disputes, ought to be raised before the appropriate forum by instituting an election petition as provided under Section 91 of the Maharashtra Co-operative Societies Act, 1960. It is well settled that election disputes must be resolved in

the manner and before the forum prescribed by the statute governing the conduct of elections.

4. In view of the aforesaid legal position, this Court is not inclined to entertain the present writ petition. However, it is made clear that the contentions raised by the petitioner on merits of the dispute are kept open to be agitated in appropriate proceedings under Section 91 of the Act. Accordingly, the writ petition stands disposed of, without prejudice to the rights and contentions of the parties, with liberty to the petitioner to avail appropriate legal remedy in accordance with law. Rule is accordingly discharged. No order as to costs.

(AMIT BORKAR, J.)