



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5136 OF 2025

Nagnath Somanna Gherade

... Petitioner

Vs.

The Returning Officer/District Deputy Registrar,
Cooperative Societies, Solapur & Ors.

... Respondents

Mr. Atharva A. Dandekar for the petitioner.
Mr. Dilip Bodake for respondent nos. 1 and 3.
Ms. P.J. Gavhane, AGP for the State.

CORAM: G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.

DATED: 17 April, 2025

P.C.

1. This petition under Article 226 of the Constitution of India *inter alia* challenges an order dated 2 April, 2025 passed by respondent no. 1/Returning Officer/District Deputy Registrar Cooperative Society, Solapur. The dispute in the present proceedings concerns the elections of the Solapur Agricultural Produce Market Committee, Solapur. The election is scheduled on 27 April, 2025. The grievance of the petitioner is to the effect that he was held to be eligible in a list of the eligible nominations as notified by respondent no. 1/Returning Officer on 2 April, 2025. His name was indicated at Serial no. 75 of the said list, a copy of which is annexed at Exhibit 'C' to the petition. The petitioner was held eligible to contest from the Gram Panchayat Constituency in terms of Section 13(1)(a)(ii) being nominated by the Rampur Grampanchayat. However, on the same day (2 April, 2025), the impugned order was passed, a copy of which was received by the petitioner on 7 April, 2025 by which the

petitioner's nomination to contest the election in question has been rejected on the ground that the petitioner stands disqualified under the provisions of Rule 10(1)(g) of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 (for short **"The Rules"**), which reads thus:

"10. Disqualifications of Committee member

(1) A person shall be disqualified for being chosen as or for being, a member of a Market Committee -

.....

(g) if he is a servant of the Market Committee or of Government or of a Local Authority or holds a license from such Committee other than that of traders, commission agents, hamals or weighmen;"

2. The contention of the petitioner is that although he is holding a trader's licence, the said Rule contemplates that if the petitioner was to be a servant of the Market Committee or of Government or of a Local Authority or holds a license from such Committee, would be disqualified and not the traders, commission agents, hamals or weighmen, who are specifically exempted from the applicability of Rule 10(1)(g). It is, therefore, the petitioner's submission that by the impugned order, the Returning Officer applying the provisions of Rule 10(1)(g) was wholly arbitrary. It is submitted that even Rule 10(2)(ii) would not be applicable insofar as the petitioner's case is concerned, as the petitioner is not contesting the elections representing the Agriculturist Constituency and hence the disqualification under Rule 10(2)(ii) would not be applicable.

3. Mr. Dandekar, learned counsel for the petitioner has drawn our attention to the per-requisites which would be required to be followed by the Returning Officer in undertaking any disqualification, namely, the provisions of Rule 25,

which provides a procedure in regard to 'Scrutiny of nomination'. The proviso below sub-section (5) provides that in case any objection is raised by the Returning Officer, the candidate concerned may be allowed time to rebut the same, not later than the next day before the publication of list of valid nomination and that the Returning Officer shall record his decision on the date to which the proceedings have been adjourned. There is also further compliance required to be made as provided for in Rule 25(6). Mr. Dandekar submitted that such procedure as mandated by law is not followed by the Returning Officer in taking the impugned decision dated 2 April, 2025.

4. Mr. Bodake, learned counsel for respondent no. 1 intends to file reply affidavit. He would not dispute that initially in the list of eligible nomination, the petitioner's name was included and on the same day, the order came to be passed disqualifying the petitioner.

5. Thus, it appears to be quite clear that after the petitioner was held eligible to contest elections and on the same day, the impugned order came to be passed without following the mandate of the aforesaid Rules as noted by us. *Prima facie* there appears to be non-compliance of Rule 25 providing a detailed procedure for scrutiny of nomination. In this view of the matter, in our opinion, the petitioner has made out a strong prima facie case for grant of interim relief. We, accordingly, pass the following order:

- i) Let the reply affidavit be filed by respondent no. 1 within two weeks from today.

ii) We are inclined to grant interim relief in terms of prayer clauses (e), (f) and (g), which reads thus:

“e) Pending the hearing and final disposal of the present petition, stay the effect, operation, execution and implementation of the impugned order dated 02.04.2025 (Ex. D to the petition) bearing no. Nivadnuk/KrUBaS/Avaiddh Nam/Adesh/71/2025.

f) Pending the hearing and final disposal of the present petition, direct the respondents to include the name of the petitioner in the list of contesting candidates under Rule 30 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017.

g) Pending the hearing and disposal of the present petition, to direct the respondents to allow the petitioner to contest as a candidate in the elections to respondent no. 1-Solapur Agricultural Produce Market Committee, for the terms 2024-25 to 2029-30.”

6. We may observe that in the event, the petitioner is elected, his election shall be subject to further orders which would be required to be passed on this petition.

7. List the proceedings on **5 May, 2025 (H.O.B.)**.

8. Parties to act on the authenticated copy of the order.

(ADVAIT M. SETHNA, J.)

(G. S. KULKARNI, J.)