



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.240/2025

Arvind Dattatray Gawande,
aged 65 years, Retired,
R/o Khrist Colony, Behind
Collector Office, Camp, Amravati,
Tq. Dist. Amravati.

.....PETITIONER

...V E R S U S...

1. The Amravati District Urban Cooperative Bank Association Ltd. Amravati,
R.No. 108, through its Chief Executive Officer, r/o Ganediwal Layout,
House No. 36, Camp, Amravati,
Tq. Dist. Amravati.
2. The District Deputy Registrar of Cooperative Societies, Amravati,
Tq. Dist. Amravati.
3. The Returning Officer,
The Amravati District Urban Cooperative Bank Association Ltd.
Amravati, c/o Taluka Deputy Registrar of Cooperative Societies,
Amravati, Tq. Dist. Amravati.
4. Jijau Commercial Cooperative Bank Ltd. Amravati through its authorized Officer, R/o Walcut Compound,
Amravati, Tq. Dist. Amravati.

...RESPONDENTS

Mr. F. T. Mirza, Senior Advocate assisted by
Ms I. Thakare, Advocate for petitioner.
Mr. S. D. Dharaskar, Advocate for respondent No.1.
Ms. K. Bhongade, A.G.P. for respondent Nos. 2 and 3.
Mr. D. G. Gawande, Advocate for respondent No.4.

CORAM:- ANIL L. PANSARE, J.
DATED :- 23.06.2025.

ORAL JUDGMENT

Issue Rule, returnable forthwith. Mr. F. T. Mirza, Senior Counsel assisted by Ms I. Thakare, counsel for petitioner, Mr. S. D. Dharaskar, counsel for respondent No.1, Ms. K. Bhongade, A.G.P. for respondent Nos.2 and 3 and Mr. D. G. Gawande, counsel for respondent No.4, waive service of Rule on behalf of the respondents. With consent of learned counsel for the parties, the petition is taken up for final hearing.

2. Having heard learned counsel at length, the controversy revolves around interpretation of Section 73B of the Maharashtra Co-Operative Societies Act, 1960 (hereinafter referred to as the, “Act of 1960”) read with Rule 20 of the Maharashtra Co-Operative Societies (Election to Committee) Rule, 2014 (hereinafter referred to as the, “Rules of 2014”). Section 73B of the Act of 1960 reads thus:

“73-B. Reservation of certain seats on committees of societies and election thereto.—

(1) Notwithstanding anything contained in this Act or in the rules made thereunder or in any bye-laws of any society, on the committee of such society or class of societies as the State Government may, by general or special order, direct, three seats shall be reserved,—

(a) one for the members belonging to the Scheduled Castes or Scheduled Tribes.

(a-i) one for the members belonging to the Other Backward Classes and;

(a-ii) one for the members belonging to the De-notified Tribes (Vimukta Jatis), Nomadic Tribes or Special Backward Classes;

(b) (Deleted)

(2) (deleted)

(3) Any individual member of the society, or any elected member of the committee of a member-society, or any member of the committee of a member-society, whether elected, co-opted or appointed under this section, belonging to the Scheduled Castes or Scheduled Tribes or Other Backward Classes or De-notified Tribes (Vimukta Jatis) or Nomadic Tribes or Special Backward Classes, shall be eligible to contest the election to a reserved seat and every person who is entitled to vote at the election to the committee shall be entitled to vote at the election to any such reserved seat.

(4) Where no person is elected to any of the three reserved seats, then such seat or seats shall be filled in by nomination from amongst the persons entitled to contest the election under sub-section (3).

Explanation.— For the purposes of this section,—

(a) a general or special order, if any, issued by the State Government under section 73-B as it existed before the date of commencement of the Maharashtra Co-operative Societies (Amendment) Act, 1983 (Mah. XLV of 1983) shall be deemed to have been issued under sub-section (1) of this section and shall continue to be in force until duly repealed or amended;

(b) the expression “Scheduled Castes” includes “Nav-Boudhas”

(b-1) the expression “Other Backward Classes, De-notified Tribes (Vimukta Jatis) and Nomadic Tribes and Special Backward Classes” means such classes or parts of or groups within such classes as are declared, from time to time, by the State Government to be Other Backward Classes, De-notified Tribes (Vimukta Jatis) and Nomadic Tribes and Special Backward Classes.”

(c) (Deleted)”

3. As could be seen, Sub Section (1) commences with non obstinate clause and provides that a committee of the society of the State Government may, by general or special order direct that three

seats shall be reserved on the committee of the society, one for Scheduled Caste or Scheduled Tribe, one for the Other Backward Classes and third for De-notified Tribes.

4. Mr. Mirza, learned Senior Counsel for the petitioner, referred to Sub Section (3) to argue that the petitioner being an elected member of the committee of respondent No.4 – member society, was eligible to contest the elections from reserved seat and for that purpose, the recommendation/nomination by the member society, either by passing resolution or otherwise, was not necessary.

5. The petitioner's election was challenged by respondent No.4 – Society on the ground that his name was not recommended/nominated by the society. The Co-operative Court, taking note of Section 73B read with Rule 20, found no merit in the objection/challenge and, therefore, dismissed the election dispute. Respondent No.4 then approached the Maharashtra State Co-Operative Appellate Court. The appellate Court also referred to Section 73B and Rule 20, to render following finding:

“XVI) The provisions of Section 73 (B) and Rule 20 show that an individual member of a society is eligible to contest the election to a reserved seat. In the present case the opponent no.4 is an individual member of the society. The question is whether an individual member of the society without appointed or nominated by the society, can independently file nomination for contesting election from reserve seats. In the section 73 (B) 3 the word 'appointed' is used where as in the proviso to Rule 20 (1)

the word 'nominated' is used. These words are certainly no applicable to elected member but applicable to any individual member of the society. Therefore, I have no manner of doubt that unless an individual member of the society is appointed by the society by passing resolution to be nominated as candidate, no individual member of a society can contest election for reserve seats.”

6. Thus, the appellate Court considered whether individual member of the society, without being appointed or nominated by the society can independently file nomination for contesting election from reserved seats? The Appellate Court then referred to Section 73B (3) of the Act of 1960 and Rule 20 (1) to opine that unless an individual member of the society is appointed/nominated by the society by passing resolution, he cannot contest election for reserved seat.

7. As such, counsel for respondent as also the learned A.G.P. made an attempt to justify the finding, however, I find that the Appellate Court misread Sub Section (3) of Section 73B. To my mind, there appears no ambiguity in Sub Section (3) to even remotely suggest that an individual member of the society or an elected member of the committee of a member society will require recommendation of the member society. It is so because Sub Section (3) provides that such an individual member or elected member of the committee of a member society belonging to reserved category as envisaged under Section 73B (1), shall be eligible to contest election through reserved seat. Once a person is held to be eligible to contest the election, the next stage is

nomination of his candidature and for that purpose, Rule 20 of the Rules of 2014, will be relevant. Relevant portion of Rule 20 reads thus:

“20 (1). Nomination of candidates.

(1) Any member whose name appears in the final list of voters may be nominated as the candidate for the election to fill a seat, if he is qualified to be chosen under the provision of the Act, rules and the bye-laws of concerned society:

Provided that, where the seats are reserved on the committee of any society as provided under section 73B and 73C of the Act, any individual member of the society, or any member of the committee of a member society, whether elected, co-opted or nominated shall be eligible for being nominated as candidate.”

...

(2) ...

(3) Any person whose name is entered in the final list of voters may be a proposer or seconder for nominating a candidate for election:

Provided that, in the case of election from constituency of societies, the proposer and the seconder shall be from the same constituency except reservation falling under section 73 B and 73C.

(4) ...”

8. Sub Rule (1) provides that the member whose name appears in the final list of voters, may be nominated as candidate for election to fill a seat. The First proviso provides that where the seats are reserved on the committee of any society as provided under Section 73B and 73C of the Act of 1960, any individual member of the society or any member of the Committee of a member society whether elected or co-opted or nominated shall be entitled for being nominated as a candidate.

9. This Rule, to my mind, leaves no room for doubt that any individual member of the society or any member of the committee of the member society is eligible for being nominated as candidate. Further, Sub Rule (3) provides that a person whose name is entered in the final list of voters may be proposer or seconder for nominating a candidate for election. That being so, the finding rendered by the Appellate Court that the member society should nominate the candidate, runs contrary to the rules of the election.

10. The petitioner, who is an elected member of committee of respondent No.4 society was thus eligible to contest election and consequently for being nominated as candidate. There is no dispute that his nomination was in accordance with rules. That being so, the finding rendered by the Appellate Court that in absence of authorization/recommendation by the member society, he could not have contested election, appears to me to be a finding contrary to what has been provided under Sub Section 3 of Section 73B of the Act of 1960. The judgment, therefore, is unsustainable.

11. The writ petition is accordingly allowed. Judgment and order dated 03.12.2024 in Appeal No. 27/2024 passed by Maharashtra State Cooperative Appellate Court, Mumbai, Bench at Nagpur, is quashed and set aside.

Judgment and order dated 19.03.2024 in Dispute No. 71/2022 passed by Co-Operative Court, Amravati, is restored.

Rule is made absolute in the above terms. No order as to costs.

(Anil L. Pansare, J.)

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