



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 3064 of 2025

[Gopal s/o Bhaiyalal Tirale ..vs.. Joint Registrar, Co-operative Society,
Nagpur and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. M. Chandekar, Advocate for the petitioner
Mr. A. V. Palshikar, AGP for respondent nos. 1 and 2
Mr. A. M. Ghare with Mr. Kshitij Jain, Advocates for respondent no. 3

CORAM : ANIL L. PANSARE J.

DATED : 18-06-2025

On 17-6-2025, following order was passed.

“Heard.

2. The petitioner – representative of Adivasi Vividh Karyakari Sahakari Sanstha, filed nomination for contesting election of Executive committee of Gondia District Central Cooperative Bank Ltd. Gondia. Respondent No.3 raised objection for nomination on two grounds. One, that he is not resident of area of operation of the society to whom the petitioner represents. Second, that the criminal case is pending against him for the offences punishable under Sections 406, 407, 408, 409, 420 read with Section 34 of the Indian Penal Code, 1860.

3. Respondent No.1 found merit in the objection and accordingly rejected his nomination.

4. The petitioner preferred appeal under Section 152 A of the Maharashtra Cooperative Societies Act, 1960 (for short the, “Act of 1960”), which came to be dismissed on 13.06.2025. Perusal of the order indicates that three grounds were raised before the Appellate Authority. First, that the petitioner is facing trial for the aforesaid offences. Second is that he is not resident of the area of operation of the society which the petitioner represents. Third is that the petitioner’s mother Jaswantabai was in arrears of loan. She expired without paying loan. The petitioner, being legal representative, ought to have repaid the loan. He, however, did not. Accordingly, the petitioner is blamed for defaulting the loan.

5. *Argument is that the third ground was raised for the first time and the order is passed without giving the petitioner opportunity to deal with the said objection. The counsel submits that Jaswantabai was not the real mother but was step-mother. Therefore, he is not legal representative. So far as the ground of pendency of criminal case is concerned, the First Appellate Court appears to have not found merit in the said ground and, therefore, has not rendered any finding of rejection of nomination on the aforesaid ground.*

6. *On this point, the counsel has invited my attention to Section 73 CA (viii), (ix) of the Act of 1960, which provides for disqualification from nomination if a candidate is convicted for imprisonment of not less than one year for an offence under the provisions of any law for the time being in force. Admittedly, the petitioner is not yet convicted for the offences for which he is being tried. That being so, the sentence in the order to that effect passed by respondent No.1 can be treated as rejection of said ground.*

7. *So far as the third ground is concerned, which relates to the residence of petitioner in the area of operation of the society, which the petitioner represents, the counsel for the petitioner has invited my attention to certificate dated 26.05.2025 issued by society stating therein that the petitioner has an agricultural land at village Sonar Tola, Post Saoli, Taluka Deori, District Gondia and further that he is at present residing at Saleksa, Taluka Saleksa, District Gondia. Argument is that the petitioner has his permanent residence at Sonar Tola but presently residing at Saleksa. The petitioner has also relied upon another certificate dated 27.05.2025 issued by Sarpancha of Gram Panchayat Dewa Toal (Group Gram Panchayat for village Sonar Tola) stating therein that petitioner is resident of village Sonar Tola. Counsel for the petitioner submits that this certificate has been not considered.*

8. *In my view, the most important ground is that respondent No.2, while rejecting nomination of the petitioner, has not assigned any reason except, “not accepted because the member is ineligible in terms of Section 73 of the Act of 1960”. Argument is that*

respondent No.2 ought to have passed a reasoned order in order to give an opportunity to the petitioner to challenge the same before the First Appellate Authority raising therein the ground as to why the order requires consideration. Even otherwise, the order having far reaching effect of putting the contesting candidate out of the election, the reason to disqualify will be necessary.

9. I find substance in the aforesaid submissions, at least to the extent of the duty of respondent No.2 to pass a reasoned order, particularly taking into consideration the effect of order.

10. Learned A.G.P. seeks time to take instructions, particularly on the point whether the documents which the petitioner has relied upon (page 62 and 63), as to whether the same were placed before it.

11. Stand over to 18.06.2025.”

2. In response, learned Assistant Government Pleader submits that certificate dated 26-5-2025 issued by the society was placed on record before respondent no. 2. However, the order impugned does not show that this document was considered.

3. Nonetheless, the fundamental effect is that respondent no. 2 has passed cryptic order in rejecting petitioner's nomination. The order says “Not accepted, the candidate is ineligible in terms of Section 73”.

4. Firstly, Section 73 does not deal with disqualification. The appropriate provision is Section 73CA of the Maharashtra Cooperative Societies Act, 1960, which includes several contingencies that would result in disqualification of a person. Thus, the order impugned does not even disclose the reason for disqualification, even if, provision quoted is to be considered.

5. It will be appropriate to refer to the guidelines dated 11-6-2018 issued by the State Cooperative Election Authority (SCEA), Pune. Clause C(vii) deals with the

procedure for taking decision. Sub-clause (i) provides that authority should take decision on objection/s and also to record reasons as to why nomination is rejected. Clause (ii) provides that since the election officer's decision can be challenged before the Court, assigning reasons is extremely important. Despite such guidelines/directions given by the competent authority, the respondent no. 2 herein has passed the aforesaid cryptic order.

6. The petitioner has in appeal memo raised a categorical plea in this regard as ground no. 1. However, the respondent no. 1 proceeded to decide the appeal as if he is authority of first instance. That apart, he has permitted respondent no. 3 to raise additional grounds. The respondent no. 1, to my mind, should have examined the order that was assailed before him and since it was an order without any reason, the respondent no. 1, taking aid of the guidelines and settled principles of law should have relegated the matter back to respondent no. 2 for decision afresh.

7. On the point of assigning reason, the Hon'ble Supreme Court in the case of ***Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota V/s Shukla and Brothers, [(2010) 4 SCC 785]*** highlighting importance of reasoned order/judgment held in following terms :

“27. By practice adopted in all courts and by virtue of judge-made law, the concept of reasoned judgment has become an indispensable part of basic rule of law and, in fact, is a mandatory requirement of the procedural law. Clarity of thoughts leads to clarity of vision and proper reasoning is the foundation of a just and fair decision. In Alexander Machinery (Dudley) Ltd. there are apt observations in this regard to say “failure to give reasons amounts to denial of justice”. Reasons are the real live links to the administration of justice. With respect we will

contribute to this view. There is a rationale, logic and purpose behind a reasoned judgment. A reasoned judgment is primarily written to clarify own thoughts; communicate the reasons for the decision to the concerned and to provide and ensure that such reasons can be appropriately considered by the appellate/higher court. Absence of reasons thus would lead to frustrate the very object stated hereinabove.”

Thus, the Hon’ble Apex Court has, in so many words, explained the importance of reasoned order/judgment. The Apex Court proceeds to observe that failure to give reasons amounts to denial of justice and assigning reasons is a basic rule of law and is a mandatory requirement of procedural law.

8. Considering the proposition of law as depicted above as also the guidelines issued by the SCEA, since respondent nos. 1 and 2 failed to follow the guidelines as also the law laid down by the Apex Court, the enquiry will have to be relegated back to respondent no. 2 for consideration afresh. Resultantly, following order is passed.

ORDER

(i) Writ petition is partly allowed. Order dated 3-6-2025 passed by respondent no. 2 and order dated 13-6-2025 passed by respondent no. 1 are quashed and set aside. The enquiry is relegated back to respondent no. 2 for consideration afresh in accordance with law.

(ii) The respondent no. 2 shall take decision before 24th June, 2025.

(iii) The parties shall remain present before respondent no. 2 on 19-6-2025 at 12.00 noon.

(iv) If the symbol is not allotted till today, the same shall be not allotted till 24-6-2025 i.e. the date of taking decision. If the symbol is allotted, the respondent no. 2 shall allot symbol

to petitioner, if the objection raised to his nomination is rejected.

(v) Writ petition is disposed of in above terms with no order as to costs.

(Anil L. Pansare, J.)

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