



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

WRIT PETITION NO. 4742 OF 2024

(Vinod S/o Ajabrao Tidke

Vs.

The State of Maharashtra, Thr. its Secretary, Cooperation and Textile
Department, Mantralaya, Mumbai-32 & Ors.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R.M. Bhangde, Advocate for the Petitioner.

Mr. A.M. Joshi, AGP for the Respondent Nos. 1 to 4/State.

Mr. S.S. Paliwal, Advocate for the Respondent Nos. 5 to 9.

CORAM: AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

DATED : 25th MARCH, 2025

1. Heard Mr. Bhangde, learned Counsel for the Petitioner, Mr. Joshi, learned AGP for the Respondent Nos.1 to 4/State and Mr. Paliwal, learned Counsel for the Respondent Nos.5 to 9.

2. The Respondent Nos.5 to 9 who had been elected office bearers of the Credit Cooperative Society, Bhandara in the election held on 08.01.2023, results of which were declared on 25.04.2023, are alleged not to have submitted the election expenses, within the time frame as contemplated by Rule 67(1)(a) of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 (for short the "Rules of 2014"), and therefore, have incurred the disqualification

under Rule 66 of the Rules of 2014.

3. Mr. Bhangde, learned Counsel for the Petitioner, while assailing the impugned communication dated 05.10.2023 (page 35), contends that on a query being made by the Petitioner under his letter dated 22.06.2023 (page 31), the Election Officer had replied to it on 07.07.2023 (page 32), stating that he had not received any election expenses from the Respondent Nos.5 to 9.

4. Based upon this reply, the Petitioner filed complaint with the Respondent No.4 on 18.07.2023. Before the complaint could be processed further, the Election Officer passed away on 24.07.2023. The Respondent Nos.5 to 9 thereafter in those proceedings had filed an application on 22.08.2023 (page 30), to which it is claimed was annexed a communication dated 06.02.2023 indicating submission of the election expenses to the Election Officer on 06.02.2023 itself.

5. Mr. Bhangde, learned Counsel for the Petitioner, submits that in view of the reply dated 07.07.2023 by the Election Officer, that he had not received any such expense statement from the Respondent Nos.5 to 9, the aforesaid communication dated 06.02.2023 was clearly a forged one. He further submits, that since the statutory mandate emanating from Rule 67(1)(a) of the Rules of 2014 require the submission of the election expenses within a period of 60 days from the date of publication of the result of the election, which was so declared on 25.04.2023, there was no reason or

cause whatsoever for the Respondent Nos.5 to 9, to have submitted the account of election expenses on 06.02.2023.

6. He further submitted, that the non-submission is also apparent from the fact, that under Rule 68 of the Rules of 2014, the Returning Officer, within two days of the receipt of the account of the election expenses has to cause a notice to be affixed to his notice board regarding the receipt of the same and the time and place at which such account can be inspected, which was never done, which according to him, substantiate the non-receipt of the election expenses from Respondent Nos. 5 to 9.

7. Mr. Paliwal, learned Counsel for the Respondent Nos.5 to 9, on the other hand, stands by the communication dated 06.02.2023 to contend, that election expenses were tendered to the Election Officer.

8. We however find, that the impugned communication dated 05.10.2023, does not go into the merits or demerits of the matter, but the Respondent No.2, merely shrugs off his responsibility to take a decision on the ground that the Election Officer has passed away and accepting the communication dated 06.02.2023, without taking into consideration the reply by the Election Officer during his lifetime dated 07.07.2023 of non-receipt of the election expenses from the Respondent Nos. 5 to 9 or for that matter, the mandate as flowing from Rule 68 of the Rules of 2014 and the consequences there for. It is equally necessary to note, that merely because the Election Officer had passed

away, that would not make any difference whatsoever, for the record of election was available and could have been perused by him for taking a decision one way or the other.

9. We, therefore, find that the impugned order dated 05.10.2023 (page 35), which does not take into consideration the aforesaid factors, cannot be sustained and is hereby quashed and set aside and matter is remitted back to the Respondent No.2 to decide the matter afresh after perusing the record of the Election Officer and also taking into consideration the communication dated 07.07.2023 as well as the Rules 67 and 68 of the Rules of 2014.

10. The parties shall appear before the Respondent No.2 on 01.04.2025, who shall decide the matter before him after affording an opportunity of hearing to the respective parties, within a period of four weeks therefrom.

11. The Petition is accordingly **allowed** in the above terms. No costs.

12. Pending application/s, if any, shall stand disposed of accordingly.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)