



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

WRIT PETITION NO.906/2025

Premkumar Ramdasji Dahiwalé .Vs. Assistant Registrar, Cooperative Societies, Sakoli,
Bhandara and Others

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

Court's or Judge's orders

Mr. P. S. Tidke, Advocate for petitioner.
Mr. Deven Chauhan, Senior Advocate/Government Pleader with
Mr. S. Bissa, A.G.P. for respondent No.1.

CORAM : ANIL L. PANSARE, J.

DATE : FEBRUARY 18, 2025

Heard.

2. Petitioner is aggrieved by order dated 06.02.2025 passed by respondent No.1-Assistant Registrar, Cooperative Societies, Tahsil Sakoli, District Bhandara, thereby accepting the nomination forms submitted by respondent Nos.4 to 10.

3. The matter pertains to election of Managing Committee of respondent No.3 namely, Lokmanya Credit Cooperative Society Ltd. The nomination forms were to be submitted between 20.01.2025 and 24.01.2025. One of the conditions for submitting the nomination form was to submit/annex certificate of fixed deposits for Rs.25,000/- for General Category and Rs.2500/- for Reserved Category. The record indicates that on 24.01.2025, the aforesaid respondents had not deposited the amount of Rs.25,000/- as required. The petitioner raised objection to the nomination, which was upheld by respondent No.2-Election Officer vide order dated 28.01.2025. The nominations were accordingly rejected.

4. Respondent Nos.4 to 10 approached appellate authority under Section 152-A of the Maharashtra Cooperative Societies Act, 1960 but not within three days as stipulated. Despite such status, respondent No.1 entertained the appeal. Surprisingly, respondent

No.1, in the impugned order, noted that these respondents have deposited the amount on 30.01.2025, meaning thereby that on 24.01.2025, they had not deposited the requisite amounts and their nomination could not have been accepted but has allowed the appeal on the said ground.

5. Thus, the challenge is two folds. One is that the appeal has been entertained beyond the limitation without condoning the delay and secondly that the admitted facts have been ignored condoning incurable defects.

6. Learned A.G.P submits that the election is at the fag end. The final list of candidates contesting the elections has been published. The voting date is 22.02.2025. In the circumstances, he submits that in terms of the settled position of law, no interference is called for at this stage.

7. As against, counsel for the petitioner has referred to the recent judgment passed by the Supreme Court in the case of **Union Territory of Ladakh and Ors. Vs. Jammu and Kashmir National Conference and another; [2023 (12) Scale 389]**. On the point of settled position of law, the Court observed thus:

“37. We would indicate that the restraint, self-imposed, by the Courts as a general principle, laid out in some detail in some of the decisions supra, in election matters to the extent that once a notification is issued and the election process starts, the Constitutional Courts, under normal circumstances are loath to interfere, is not a contentious issue. But where issues crop up, indicating unjust executive action or an attempt to disturb a level-playing field between candidates and/or political parties with no justifiable or intelligible basis, the Constitutional Courts are required, nay they are duty-bound, to step in. The reason that the Courts have usually maintained a hands-off approach is with the sole salutary objective of ensuring that the elections, which are a manifestation of the will of the people, are taken to their logical conclusion, without delay or dilution thereof. In the

context of providing appropriate succour to the aggrieved litigant at the appropriate time, the learned Single Judge acted rightly. In all fairness, we must note that the learned ASG, during the course of arguments, did not contest the power per se of the High Court to issue the directions it did, except that the same amounted to denying the Appellants their discretion. As stated hereinbefore, we are satisfied that in view of the 1968 Order, the Appellants' discretion was not unbridled, and rather, it was guided by the 1968 Order."

8. Thus, the Supreme Court reiterated the importance of self imposed restraint by the Constitutional Courts in the matters of elections, particularly when it has reached the last phase. However, in a case where the action of the executive is apparently unjust, the Constitutional Courts are expected to step in to resolve the controversy which, to my mind, will save the future litigation, which is bound to follow, if an unjust act of the executives is allowed to be continued.

9. In the present case and as noted above, not only are there two fold lapses pointed out by the petitioner's counsel, there is one more reason to step in the matter, which is that the petitioner was not even made party to the appeal.

10. The facts, as disclosed from record show that on 24.01.2025, respondent Nos.4 to 10 have submitted nomination forms without valid receipt of fixed deposit of Rs.25,000/-. Respondent No.2 on 28.01.2025, rejected the nomination forms on the objection raised by the petitioner. The appeal ought to have been filed within three working days viz. on or before 31.01.2025. The appeal, however, has been filed on 03.02.2025 as disclosed by respondent No.1 in his notice dated 03.02.2025 (Annexure 6). Thus, the appeal has been entertained belatedly without condoning delay. The petitioner has been not made party to the appeal. Further, the order impugned itself indicates that the amount of fixed deposit for

Rs.25,000/- is deposited on 30.01.2025, meaning thereby that on 24.01.2025, the respondents had not invested the amount as required under Condition No.11 of the Election Programme.

11. Issue notice before admission to the respondents, returnable on 20.02.2025.

12. Learned A.G.P waives service of notice for respondent No.1.

In addition to usual mode of service, the petitioner shall serve respondents through all permissible modes including service by speed post and e-mail. In addition, respondent No.1 shall intimate to all other respondents about the order passed today, which shall be deemed as service of notice of the petition to these respondents.

(Anil L. Pansare, J.)

Kahale