



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

902 WRIT PETITION NO. 3966 OF 2026

Manoj Manoharrao Gomare

VERSUS

The State Of Maharashtra Through The Secretary And Ors

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Advocate for Petitioner : Mr. A. N. Irpatgire

AGP for Respondents: Mr. S.P. Joshi

Advocate for Respondent no. 3 : Mr. S.K. Kadam

Advocate for Respondent no.5 : Mr. K.J. Suryawanshi a/w S B. Kendre

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : April 17, 2026

ORDER :-

1. Present writ petition is filed with following prayers :-

“B] The impugned order passed by the Assistant Registrar, Co-operative Societies, Latur in Appeal No.01/2026 on 10.04.2026 dismissing the Appeal and confirming the order of Returning Officer rejecting the Nomination paper on 27.03.2026 may kindly be quashed and set aside, by issuing writ of certiorari or any other appropriate writ in the nature of writ of certiorari.

C] The respondent No.3 may kindly be directed to accept the Nomination paper of the petitioner in the election of respondent No.4 and declare him elected as a committee member of respondent No.4 by issuing writ of mandamus or any other appropriate writ in the nature of writ of mandamus.”

2. Mr. Irpatgire, learned advocate appearing for petitioner submits that the elections of Managing Committee of the respondent no.4/Vividh Karyakari Seva Sahakari Society Ltd.

was scheduled as per the programme. Petitioner submitted his nomination for the seat to be elected from 'OBC' reserved category alongwith requisite documents. On 27.3.2026 objection was raised to the nomination of petitioner stating that he has three children born after cutoff date. The respondent no.3 rejected petitioners nomination upholding disqualification under section 73-CA(1),(f)(viii) of Maharashtra Cooperative Societies Act, 1960 (for short said Act). Petitioner preferred appeal under section 152-A of the said Act, before respondent no.2, however, same is rejected vide impugned order dated 10.4.2026.

3. Mr. Irpatgire, learned advocate appearing for the petitioner submits that the seat for OBC category has been reserved under section 73-B of the said Act with a view to provide the representation to persons belonging to OBC category. Petitioner is sole candidate from said category. Therefore, once nomination of petitioner is accepted, his election would be uncontested. In this backdrop, rejection of nomination has caused serious prejudice to the petitioner. According to Mr. Irpagtire, rejection of nomination is on erroneous count, particularly, in light of exposition of law by Full Bench Judgment of this Court in case of **Subhash**

Sajesingh Gavit Vs. Returning Officer, Zilla Parishad, Nandurbar reported in **2019 Supreme (Bom) 180**, wherein it is held that demise of child can be excluded from computing number of living children and number of children that a candidate has on the date of filing nomination paper, would be reckoned.

4. In the present case, there is no dispute that petitioner's son namely Ajay died on 19.1.2023. As such, as on date of submission of nomination papers, petitioner had only two living children namely Akshay and Abhay. Hence, disqualification in terms of the section 73-CA(1),(f)(viii) of Maharashtra Cooperative Societies Act, 1960 would not attract.

5. Per contra, Mr. Suryawanshi, learned advocate appearing for respondent no.5 relying upon observations of Rajasthan High Court judgment in case of **Gajender Bishnoi Vs. The Rajasthan Public Service Commission and Another in Civil Writ Petition No.5971/2021 decided on 05.10.2023** submits that disqualification attracts no sooner a third child is born and is living after two living children. Merely because the couple has parted with one child, the disqualification does not cease to operate.

6. Mr. Kadam, learned advocate appearing for respondent no.3 would submit that Returning Officer passed impugned order considering disqualification provisions as contemplated under the Maharashtra Cooperative Societies Act. As such, there is no fault in the impugned order. He further points out that election process has been advanced and at this stage, interference of this court may not be necessary.

7. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that petitioner had three children, however, he lost his son Ajay on 19.1.2023. As such, as on the date of submission of nomination paper, he had only two living children namely Akshay @ Vijay and Abhay. In this contingency, question is whether disqualification prescribed under section 73-CA(1),(f) (viii) of Maharashtra Cooperative Societies Act, 1960 *would attract in the facts of the present case*. This Court finds that the said issue is no more *res-integra*. The Full Bench of this Court in case of **Subhash Gavit (supra)** after considering relevant provisions of Maharashtra Village Panchayts Act, 1959 concluded that 'demise of a child can be excluded from computing number of living children and number of children

that a candidate has on the date of filing nomination paper, would be reckoned.’

8. If aforesaid analogy is applied in facts of the present case, apparently disqualification contemplated owing to third children as on the date of submission of nomination paper would not attract as against petitioner.

9. Although, Mr. Suryawanshi heavily relied upon observations of Rajasthan High Court, this Court finds that such observations are in peculiar facts of that case. The aforesaid judgment cannot be relied upon by this Court in wake of the judgment of Full Bench.

10. In present case, petitioner lost his first child in the year 2023 and as on date of nomination, he has only two living children.

11. In light of aforesaid factual and legal backdrop and particularly, when petitioner was the only candidate from OBC category, this Court finds that the impugned order cannot be sustained in law. Hence, Writ Petition is **allowed** in terms of prayer clauses ‘**B**’ and ‘**C**’ and **disposed** of.

(S. G. CHAPALGAONKAR, J.)