IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.14527 OF 2026

Eknath Chandrabhan Ghogare,
Age : _ years, Occu. Agriculture,
R/o Loni Khurd, Taluka Rahata,
District Ahilyanagar. … **Petitioner**

Versus

1. The State of Maharashtra,
Through its Secretary,
Co-operation, Marketing and
Textiles Department, Mantralaya,
Mumbai 400 032.

2. The State Co-operative Election Authority,
Maharashtra State, Pune,
Through its Commissioner/Secretary.

3. The District Co-operative Election Officer
and Divisional Joint Registrar,
Co-operative Societies, Nashik Division,
Gruhnirman Bhavan, Gadkari Chowk, Nashik.

4. The Returning Officer,
and District Deputy Registrar,
Co-operative Societies, Ahilyanagar,
Office at: Hall of the Chahurana Branch
of the said Bank, Second Floor, Ahilyanagar.

5. The Ahmednagar District Central
Co-operative Bank Ltd., (ADCC Bank)
Head Office: Station Road,
Ahilyanagar-414 001,
Through its Chief Executive Officer.

6. Dr. Sujay Radhakrishna Vikhe Patil,
Age: 45 years, Occu.: Political Leader/ Doctor,
R/o: At Post Loni Bk., Tq. Rahata,
Dist. Ahilyanagar. … **Respondents**

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Advocate for the Petitioner : Mr. Prateek R. Talwar a/w Mr. Rishab R. Talwar.
AGP for Respondent/State : Mr. S. K. Tambe.
Advocate for Respondent Nos.2 to 4 : Mr. S. K. Kadam.
Advocate for Respondent No.5 : Mr. V. R. Dhorde.
Advocate for Respondent No.6 : Mr. V. D. Hon (Senior Advocate) i/b Mr. A. D. Ostwal.

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CORAM : MANJUSHA A. DESHPANDE, J.

RESERVED ON : 16.10.2026
PRONOUNCED ON : 22.10.2026

JUDGMENT :

1. Rule. Rule made returnable forthwith. Heard with the consent of the respective parties.

2. The petitioner in this Writ Petition has raised challenge to the order dated 06.10.2026, passed by respondent No.4/Returning Officer. The objection raised by the petitioner to nomination of respondent No.6 in the election of respondent No.5/Bank has been turned down. Thus, being aggrieved by the said order, the petitioner is approaching this Court.

3. The petitioner's name is included in the voters list of respondent No.5/Bank in his capacity as an authorized representative of Vividh Karyakari Seva Sahakari Society, Loni

Khurd. His name is included in the list of voters for Primary Agricultural Credit Supply/Vividh Karyakari Seva Sahakari Societies, Grain Bank Co-operative Societies and other similar societies constituency in Taluka Rahata, for the election of the Board of Directors of respondent No.5/Bank for the term from 2026 to 2031.

4. Learned advocate Mr. Talwar submits that, the petitioner is a voter of the very constituency from which respondent No.6 is contesting election. According to the petitioner, respondent No.6 has under his own signature executed a registered Indenture of joint and several liability and notarized 'Hamipatra' in favour of respondent No.5/Bank, thereby binding himself personally and jointly to repay the re-structured loan of respondent No.5/Bank on behalf of Dr. Baburao Bapuji Tanpure Sahakari Sakhar Karkhana Ltd. It is submitted that, the said Karkhana is admittedly in default of the loan availed from respondent No.5/Bank. Since respondent No.6 has undertaken to repay the loan of respondent No.5/Bank in capacity of one of the Directors of the Dr. Bapuji Tanpure Sahakari Sakhar Karkhana, by executing an agreement it is a primary responsibility of respondent No.6 to

clear the dues of Karkhana, which they owed to respondent No.5/Bank. It is further submitted that, since respondent No.6 with the other Directors has undertaken to repay the loan of the bank in case of failure of the Karkhana to pay the same, being a 'guarantor' he has been made a nominal member of the bank. It is submitted that, he has been added as a nominal member of the bank as per bye law No.11 of the standard bye laws for the District Central Co-operative Bank. Since the Dr. Bapuji Tanpure Sahakari Sakhar Karkhana, has defaulted in repayment of the loan even after re-structuring the loan, respondent No.6 owes responsibility to repay the loan. In view of the Hamipatra, that has been executed by all the Directors of the sugar factory, they are jointly and personally responsible for the repayment of re-structured loan.

5. He further submits that, the 'Karkhana' of which respondent No.6 is an expert Director, had obtained various loans and had become non performing asset on 31.10.2012. The Bank issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (in short "SARFAESI Act") on 19.09.2013 for its dues of about 57.08 crores. On

24.04.2017, possession of the movable and immovable assets of the factory were taken over under Section 14 of the SARFAESI Act. It is submitted that, the Board of Directors by its resolution dated 15.04.2017, requested the bank to restructure the overdue loan and to hand over the factory to the Board of Directors. Accordingly, a resolution was passed to convert the overdue amount of Rs.8973.82 lakhs together with the legal expenses, in the long term re-structured loan. One of the condition in the bank's sanction letter was that, after the bank executes supurtnama of assets in favour of the factory, the entire responsibility of running of the factory shall be that of Board of Directors and a registered 'Hamipatra' by existing Board of Directors, shall be executed in furtherance thereto. The Hamipatra has been executed by all the Board of Directors including respondent No.6, who claims to be the 'expert Director'. Therefore, according to the petitioners, since the Karkhana is unable to repay the loan, it is now the responsibility of the guarantor, who has undertaken to repay the loan, as a result of which, the guarantors are defaulter of the bank.

6. It is submitted that, Section 73CA(1)(i) of the

Maharashtra Co-operative Societies Act, 1960 (in short "MCS Act"), provides the disqualifications for becoming member of a committee. No person is eligible for being nominated elected, co-opted or for being a member of committee if he is a defaulter of any society. Thus, according to him, the word 'any society' is wide enough and includes the petitioner who is the guarantor for the Karkhana. Since respondent No.6 has failed to discharge his duty as a guarantor, he is a defaulter as per Section 73CA(1)(i) of the MCS Act.

7. In support of his submission, he has relied on the decision of this Court in case of ***Damodar Shamrao Pande Vs. State of Maharashtra and others [2017(1) ALL MR 822]***, where this Court has held that, the provisions of Section 73CA(1)(i) of the MCS Act in clear and unambiguous terms provide that a person will be disqualified to be a member of the Committee, if he is defaulter of 'any' Society. He, therefore, submits that in view of aforementioned decision of this Court, it is sufficient that a member is defaulter of any society for disqualifying him. He further submitted that, as per Section 128 of the Contract Act 1872, the liability of a surety is coextensive with that of the principle debtor, unless it is

otherwise provided by the contract. Thus, according to him, in view of Section 128 of the Contract Act, it is the liability of respondent No.6 to repay the loan and since it is an admitted position that the Karkhana is in default of the loan, thus, the respondent No.6 is undoubtedly a 'defaulter'. It is submitted that, the rules and bye laws are made to ensure purity of administration of the Co-operative Societies and if respondent No.6 is allowed to be elected, who himself is a defaulter, it would be against the very object of the bank, which he would be representing. He would not be in a position to secure the interest of the bank, of which, he himself is a 'defaulter'.

8. Reliance is placed on the decision of ***Murlidhar Bhaulal Malu and others Vs. Sudhakar Honaji Patil and another [AIR 1988 Bom. 256]***. It is submitted that respondent No.4 has passed an order without calling any record and ignoring the submissions made on behalf of the petitioner. He would further submit that, without due consideration of the rules and in absence of record, a cryptic and unreasoned order has been passed by respondent No.4. Thus, according to him, respondent No.4 has failed to exercise the jurisdiction conferred on him under Rule 25 of the Maharashtra State Co-

operative Societies (Election to Committee) Rules, 2014 (in short "Rules of 2014"). It is submitted that it was the duty of the Returning Officer to examine the nomination papers and all the objections while conducting a summary inquiry. While doing so, he was bound to take into consideration the objection raised by the petitioner, about the disqualification of respondent No.6, which is against the rules and bye laws of the MCS Act. He, therefore, submitted that, interference by this Court is necessitated for restraining respondent No.6 from contesting the election of respondent No.5/Bank.

9. Learned Senior Advocate Mr. V. D. Hon appearing for respondent No.6, who is the contesting respondent, raises a preliminary objection to the maintainability of the present Writ Petition on the ground that, as per the election programme for respondent No.5/Bank, the election process is now at a very advance stage. As per the election programme, valid nominations have been declared on 07.10.2026 itself. Thus, at this stage, the interference of this Court is not warranted. The only remedy now available to the petitioner is in the form of raising election dispute as provided under Rule 78 of the Rules of 2014.

10. He would further submit that, the petitioner has not come before this Court with clean hands, since he has suppressed the fact that, his own nomination has been rejected. Therefore, he does not have any right to challenge the nomination of respondent No.6, before this Court. He further submitted that, there are various constituencies provided under the bye laws of respondent No.5/Bank, the respondent No.6 has filed his nomination from the constituency of Primary Agricultural Co-operative Societies and Grain Bank Co-operative Societies and other similar societies etc. whereas the petitioner had filed in his nomination from the constituency of Agricultural Allied Societies and Agricultural Produce Processing and Marketing Societies, hence, thus there is no conflict of interest.

11. He further submitted that, although it is claimed by the petitioner that respondent No.6 is a defaulter, till date, no order or any declaration has been issued by any Authority or Court declaring respondent No.6 to be the defaulter of respondent No.5/Bank. According to him, for passing any order or declaring an individual to be a defaulter, remedy

under Sections 79, 85, 88 is required to be resorted for seeking such declaration. He submitted that respondent No.4 has rightly passed order under Rule 25 of the Rules of 2014.

12. It is submitted that, as provided under Rule 25, after scrutiny of the nomination papers, on the grounds provided in Rule 25(2) of the Rules of 2014, respondent No.4 did not find that the candidature of respondent No.6, violative of the Act, Rules and the bye laws. Therefore, he has accepted the nomination of respondent No.6. He further submitted that against the rejection of nomination, there is a remedy provided under Section 152(A) of the MCS Act. But, no such remedy is provided if the nomination form is accepted. This is for the obvious reason that, the legislature in its wisdom as thought it fit not to provide any such remedy with an intention to minimize interference in the election process.

13. In support of his submission, he has relied on the decision of this Court in ***Writ Petition No.3493 of 2021, Shrikant Bhimraoji Gawande Vs. District Co-operative Election Officer and Divisional Joint Registrar, Co-op. Societies, Amravati and others,*** where this Court has made the above

observations, while considering Section 152(A) of MCS Act, which provides a remedy only against the rejection of nomination form and no remedy is provided if the nomination form is accepted. Thus, according to him, once the nomination form of respondent No.6 is accepted, the only remedy available to the petitioner is filing dispute as provided under Rule 78 of the Rules of 2014. In support of his submission that, after the election process has commenced, the Court should normally not interfere, he would rely on the decision of *Shrikant Gawande (supra)*, which takes into consideration the various decisions, about interference of the Courts, in the election process. More particularly, referring to the decision in ***Shri. Sant Sadguru Janardan Swami Vs. State of Maharashtra and others [2001 (8) SCC 509]*** as well as ***Pandurang Laxman Kadam and others Vs. State of Maharashtra and others [2016(4) ALL MR]***, it is held by this Court that, in fact hands off policy in regard to interference by the Courts in election, has been reiterated by the Hon'ble Apex Court in case of ***State of Goa Vs. Fouziya Imtiaz Shaikh and another [2021 SCC Online SC 211]***. It is held that, at times it is not possible for the Returning Officer, to decide upon the objections raised,

considering the limited nature of inquiry to be conducted by him, in limited time frame, while deciding the question of validity of the nomination, hence it would not be appropriate to expect an indepth inquiry, while considering the objections to the nomination of a candidate.

14. Learned advocate Mr. Kadam appearing for respondent Nos.2 to 4 submitted that, the procedure under Rule 25 of the Rules of 2014, is summary in nature. By drawing attention of this Court to Rule 25(5) of the Rules of 2014, he submitted that, according to the procedure prescribed under this rule, on the appointed date, the Returning Officer is required to decide objection to the nomination. Thus, except summary inquiry, the Returning Officer is not able to go into the disputed questions of fact as well as law. Only in case an adjournment is sought, time is allowed to rebut the allegations made against the candidate not later than the next day before the publication of list of valid nomination. The Returning Officer is bound to take decision on the date, on which, it is adjourned. He, therefore, submitted that in spite of the limitations as provided in the Rules of 2014, respondent No.4 has conducted a summary inquiry while passing the order impugned. He has recorded all

the submissions and the grounds raised to the nomination of respondent No.6, as can be seen from the impugned order. Only after recording the objection of the petitioner and also granting an opportunity to respondent No.6, he has passed a reasoned order holding that, since respondent No.6 was an expert Director of Dr. Baburao Bapuji Tanpure Co-operative Sugar Factory, merely because he has given an undertaking while he was Director of the Sugar Factory, it would not be a bar for him to be nominated as per Section 73CA of the MCS Act. He has relied on decision of this Court in ***Writ Petition No.3312 of 2026, Shri. Nagnath Ramrao Patil Vs. The State of Maharashtra and another***, where it is held that, just because respondent is a guarantor, he cannot be termed as a 'defaulter'.

15. He therefore submitted that, Respondent No.6 is not a defaulter of respondent No.5/Bank, in his personal capacity as provided in Section 73 CA(1)(f)(i) and (ii) of the MCS Act. It is further submitted that, in fact the 'Karkhana' is already taken over by the Bank, therefore, there is no question of expert Director of the Karkhana being declared as a defaulter. Further relying on Section 73CA(1)(i)(f) he would submit that, the District Central Co-operative Bank would be governed by

Clause (f) of Section 73CA(1)(i). Only in cases falling under the three categories provided under section 73CA (1)(i)(f), a person or a society would be a defaulter. Since respondent No.6 does not fall in any of the three categories, he cannot be termed as a defaulter.

16. He would rely on the decision of this Court at its Principal Seat in case of ***Ramdas Yashwanta Mandlik (Deceased) through legal heirs and another Vs. B. Y. Pagare Authorized Officer and Assistant Registrar Co-operative Societies and others in Letters Patent Appeal No.219 of 2006 in Writ Petition No.6911 of 2025 decided on 17.10.2025.*** where this Court has decided about the role of an expert Director in the Managing Committee of a society. According to this Court, once bye laws provide for appointment of an expert Director, who would have no right to vote in the meetings of the Managing Committee, then certainly the role of an expert Director is deemed to be advisory. In such circumstances, even if an expert Director endorses his signature on a document like minutes of meetings it cannot have any significance.

17. Hence, according to him, considering the limited scope

of Rule 25, the inquiry is conducted by respondent No.4, when objection is raised to the nomination of respondent No.6 within the limited time as available to him. The grounds raised by the petitioner needs to be decided by leading evidence, as it involves disputed question of facts and interpretation of provisions of law.

18. After hearing the respective parties, the following undisputed facts emerge. (i) The elections of the Board of Directors of respondent No.5/Bank for the term 2026-2031 has been declared. The list of voters has already been finalized. (ii) Presently, as per the election programme, even the nomination forms have been filled in, for which last date was 07.10.2026 and now it is at the stage for withdrawal of nominations for which the last date is 21.10.2026. (iii) The petitioner has filed the objection to the nomination of respondent No.6, on 06.10.2026. (iv) The Objection is raised on the ground that, respondent No.6 is an expert Director of a sugar factory i.e. Dr. Baburao Bapuji Tanpure Sahakari Sakhar Karkhana Ltd., who is a defaulter of respondent No.5/Bank. (v) The loan of the respondent/sugar factory is re-structured on 26.05.2017, while doing so, guarantee is taken from the

Directors of the Bank to the effect that, in case the bank fails to make repayment of the loan, it would be responsibility of the Directors of the Bank. It would be collective as well as personal responsibility of the Directors of the Bank to repay the loan of respondent No.5/Bank, for which and Indenture of joint and several liability has been executed on 17.07.2017.

19. It is claimed that, respondent No.6 being a guarantor and an expert Director of the Karkhana, who has defaulted in repayment of loan would suffer disqualification under Section 73CA(1)(i) of the MCS Act, which reads thus :

> *"73CA. [[Disqualification of committee and its members.]*
> *[(A1) In the case of a society, which gives loans to members for purchasing machinery, implements, equipments, commodities or other goods, or which deals in such goods, no member, who or whose member of the family is a dealer in such goods or is a director of a company or a partner in a firm carrying on business in such goods, in the area of operation of the society shall be eligible for being elected or nominated as a member of the committee of such society;]*
> *Explanation. - For the purposes of this sub-section, the expression "family" shall have the same meaning as explained in the Explanation 1, to sub-section (2) of section 75.*
> *(1) Without prejudice to the other provisions of this Act or the rules made thereunder in relation to the*

disqualification of being member of a committee, no person shall be eligible for being appointed, nominated, elected, co-opted or, for being a member of a committee, if he -

(i) is a defaulter of any society;

Explanation. - For the purposes of this clause, the term "defaulter" includes-

(a) in the case of a primary agricultural credit society, a member who defaults the repayment of the crop loan on the due date;

(b) in the case of term lending society, a member who default the payment of any instalment of the loan granted to him;

(c) in the case of any society,-

(i)a member who has taken anamat or advance; or

(ii)a member who has purchased any goods or commodities on credit or availed himself of any services from the society for which charges are payable; and fails to repay the full amount of such anamat or advance or pay the price of such goods or commodities or charges for such service, after receipt of notice of demand by him from the concerned society or within thirty days from the date of withdrawal of anamat or advance by him or from the date of delivery of goods to him or availing of services by him, whichever is earlier;

(d)in the case of non-agricultural credit societies, a member who defaults the payment of any instalment of the loan granted;

(e)in the case of housing societies, a member who defaults the payment of dues to the society within three months from the date of service of notice in writing served by post under certificate of posting demanding the payment of dues;

> *(f)[in the case of District Central Co-operative Bank or of the State Co-operative Bank, a member, if he,-*
>
> *(i), (w.e.f. 14-2-2013).](i)is a person who represents a society other than a primary agricultural credit co-operative society on the board of a District Central Co-operative Bank or the State Co-operative Bank, if the society to whom he represents has committed a default towards the payments of such Bank for a period exceeding ninety days;*
>
> *(ii)is a person who is a defaulter of a primary agricultural credit co-operative society or is an office bearer of a defaulting primary agricultural co-operative credit society;(iii)is a person who represents a society whose Managing Committee is superseded.]"*

20 This objection raised by the petitioner was turned down by respondent No.4 referring to the decision of this Court in ***Writ Petition No.3312 of 2026 in Shri. Nagnath Ramrao Patil Vs. State of Maharashtra and others***. Thus, the issues that arises for consideration before this Court are ;

> (i) Whether the order passed by respondent No.4 in capacity of the Returning Officer as provided under Rule 25 of the Rules of 2014, suffers from any error?
>
> (ii) Whether Respondent No.4 is empowered to disqualify Respondent No.6, on the ground that, he is a guarantor for the loan availed by a sugar factory?

21. So far as the maintainability of the present Writ Petition is concerned, it is the settled position of law that judicial interference in election matter is not warranted, once the election process has commenced. The only exception would be when the order passed by the Election Officer is patently illegal or erroneous or passed without jurisdiction and the error is so egregious that, the illegality or error cannot be allowed to be continued. At the same time, it also needs to be appreciated that, the election process cannot be disturbed at the instance of an individual grievance, when such grievance is brought before the Court at an advance stage. More particularly, when the objection to the nomination is rejected. If at all the nomination is rejected, which causes a prejudice to the rights of an individual, it needs to be addressed, at the earliest, for which a remedy is already provided under Section 152(A) of the MCS Act which reads thus :

> ***"152A. Appeal against rejection of nomination paper at election.***
>
> *(1) Notwithstanding anything contained in this Act or the rules or the bye-laws made thereunder, a person aggrieved by the, rejection of nomination of a candidate at the election of a committee of any society, may file an appeal to the Registrar within three days of the date of*

rejection of the nomination. The Registrar shall dispose of such appeal within ten days of the date of receipt of such appeal and the decision of the Registrar in appeal shall be final and no further appeal or revision shall lie against the decision of the Registrar in such appeal. [In the case of a society, an appeal shall lie to the officer as may be specified by the State Co-operative Election Authority, who shall dispose of such appeal within ten days from the date of receipt of such appeal and the decision of the such officer, shall be final]

(2) Notwithstanding anything contained in this Act or the rules or the bye-laws made thereunder, the list of validly nominated candidates shall be subject to the decision of any appeal filed under sub-section (1), and the period between the date of scrutiny of nomination papers and the last date of the withdrawal of candidatures shall not be less than fifteen days.]."

22. On reading of the aforementioned provision, it is manifest that this remedy is provided only against the rejection of nomination and no remedy is provided if the nomination form is accepted.

23. This Court in case of *Shri. Shrikant Gawande (supra)* has already considered the scope of Section 152(A) of the MCS Act and the reasons behind not providing remedy against the acceptance of nomination form. The relevant observations in the aforementioned decision is reproduced hereinunder :

> *"**18**. The contention of Shri Samarth, learned Senior Counsel for the petitioner regarding absence of any remedy under section 91 of the Maharashtra Co-operative Societies Act, 1960, against the impugned action, has to be viewed in light of the position that with an intention to minimize, interference in the election process the Legislature while providing a remedy against the rejection of a nomination paper, has intentionally refrained, from providing any remedy, against the acceptance of nomination paper, as that is a ground, permissible to be raised in the election petition filed after the entire process is over, which is also a reason why the acceptance of nomination ought not to be interfered with."*

24. This Court in case of ***Shri. Someshwar Sahakari Sakhar Karkhana Ltd., Someshwar Nagar Vs. Shriniwas Patil [1992 Mh.L.J. 883]*** had framed an issue as to whether preparation of list of voters for elections to the Managing Committee of a specified society in accordance with the provisions of Maharashtra Co-operative Societies Act and the Maharashtra Specified Co-operative Societies Elections to Committees Rules 1971, is an intermediate stage in the process of election. This Court relying on the decision of Division Bench of this Court in ***Special Civil Application No.2550 of 1972, in case of Ganesh Sahakari Sakhar Karkhana Election and Osmanabad Bank Election Case***, this Court has held that, the preparation of list

of voters for election of Managing Committee of a specified society is an intermediate stage in the process of election. Thus, it would not be proper for the Court to interfere in an petition under Article 226 of Constitution of India. When the dispute relates to the intermediate stage in process of election, it would be better to leave the parties to raise the necessary dispute by way of substantive election petition.

25. So as to cause interference, at such advanced stage, there has to be an order that is patently erroneous and perverse on the face of it. In the present case, on perusal of the order passed by respondent No.4, he seems to have recorded all the grounds raised by the petitioner in the impugned order. He has recorded all the objection raised by the petitioner. The parties have been represented through their respective advocates, who have filed their written submissions. After taking into consideration, the documents placed on record by the respective parties, respondent No.4, has decided the objection raised by the petitioner in accordance with the procedure provided under Rule 25 of Rules of 2014, which is reproduced hereinunder :

"25. Scrutiny of nomination papers.--

(1) On the date fixed, for the scrutiny of nomination papers under rule 18, the candidates, one proposer of each candidate duly authorized in writing by each candidate, may attend at the time and place appointed in this behalf, and the Returning Officer shall give or cause to give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered as required by rule 20. No other person shall be allowed to attend the scrutiny of nomination.

(2) The Returning Officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary reject any nomination on any of the following grounds, that is to say:--

(a) that the candidate is disqualified for being chosen to fill the seat by or under the Act, the Rules and the bye-laws;

(b) that the proposer or seconder is disqualified from subscribing a nomination paper;

(c) that there has been a failure to comply with any of the provisions of rule 21 or 23;

(d) that the signature of the candidate or the proposer or the seconder on the nomination paper is not genuine.

(3) Nothing contained in clause (c) or (d) of sub-rule (2) shall be deemed to authorize the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(4) The Returning Officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

(5) The Returning Officer shall hold the scrutiny on the date appointed in this behalf under rule 18, and shall not allow any adjournment of the proceedings, except when such proceedings are interrupted or obstructed by riot or open

violence or by causes beyond his control:

Provided *that, in case any objection is raised by the Returning Officer or is made by any other person, the candidate concerned may be allowed time to rebut it, not later than the next day before the publication of list of valid nomination and the Returning Officer shall record his decision on the date to which the proceedings have been adjourned.*

(6) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, he shall record in writing, a brief statement of his reasons for such rejection, and a copy of such statement shall be immediately supplied on demand to the candidate or to the proposer concerned. The copy of such statement shall be sent invariably to the SCEA or District Co-operative Election Officer, as the case may be."

26. On bare perusal of the Rule 25 Sub Clause (2), it is evident that, after any such objection is filed, the Returning Officer is supposed to conduct a summary inquiry and if he thinks fit, reject any nomination on the ground enumerated under Sub clause (2). Although it is claim of the petitioner that, that the case of the petitioner would fall under Rule 25(2)(a), as the nomination of respondent No.6 is against the provisions of the Act, Rules as well as bye laws of the society. In my view considering the limited scope of the powers conferred on the Returning Officer to scrutinize the nomination papers and decide the objections immediately. Only a summary inquiry is possible. The issue whether the 'guarantor' of the

loan would fall under the category of 'defaulter' cannot be decided in a summary inquiry. It requires evidence and interpretation, of provisions, of rules and bye laws, which is not possible while deciding the objection to the nomination.

27. So far as the contention of the petitioner that, the impugned order is cryptic, without assigning appropriate reasons and passed without non-application of mind is concerned, according to Rule 25(6) of the Rules of 2014, the Returning Officer is required to endorse his decision accepting or rejecting the nomination, but only while rejecting the nomination, it is necessary for him to record in writing the reasons for such rejection. This provision is made with a view to enable the aggrieved party to redress his grievance by availing remedy, of filing an appeal under Section 152A of the MCS Act. So far as allowing the nomination is concerned, it is not necessary to record reasons as to why such nomination is allowed. However, since objection is raised by the petitioner to the nomination of respondent No.6, respondent No.4 has recorded the reasons for allowing the nomination, by a speaking order. The order passed by respondent No.4 commensurates with his limited powers and time available at

his disposal, while deciding the objection to the nomination. It is beyond the purview of the powers of respondent No.4 to decide the issues raised by the petitioner. Thus, I do not find any jurisdictional error in the order passed by respondent No.4 vide order dated 06.10.2026.

28. Pertinently, though respondent No.6 is an expert Director of Dr. Baburao Bapuji Tanpure Sahakari Sakhar Karkhana Ltd. he has categorically stated that, he has not taken any loan in his personal capacity from Respondent No.5/Bank, nor is he a defaulter of the said bank or of any other society. It is also not disputed that, although much stress is given on the fact that, respondent No.6, owes collective responsibility with other Directors as per the Indenture executed by him in capacity as a Director, but the petitioner has not placed on record any order or declaration that respondent No.6 is a defaulter of respondent No.5/Bank.

29. The petitioner is contesting election of respondent No.5/Bank, in the representative capacity from the constituency of service resource society, service co-operative society and multi purpose co-operative societies among the

various constituencies provided under bye-law No.30 of the Respondent No.5/Bank. He is nominated by one Vividh Karyakari Seva Sahakari Society, Loni Budruk and he is not representing the sugar factory of which he is claimed to be a defaulting guarantor.

30. So far as the 'defaulter' of a society is concerned, Section 73CA of the MCS Act, is the relevant provision which governs the disqualification of committee and its members. As has been rightly pointed out, a 'defaulter' in context with election to respondent No.5, would mean a defaulter as contemplated under Section 73CA(i)(f), and the three categories provided under clause (f), would disqualify a person or a society from representing in the elections of respondent No.5/Bank. It is not the case of the petitioner that, the respondent No.6 would be governed by Clause (i) of Section 73CA(1)(f) of the MCS Act. Similarly, the society to whom Respondent No.6 represents i.e. the Vividh Karyakari Seva Sahakari Society, Loni Budruk is not a defaulter of respondent No.5/Bank. Thus, the case of the petitioner would not fall under item (i) and (ii) of sub clause (f). Thus, the petitioner is neither a defaulter of an Primary Agriculture Credit Co-operative Society, in his personal

capacity nor is he a office bearer of a defaulting Primary Agriculture Co-operative Society. As such he would not incur disqualification as provided under Section 73CA(1)(f) of the MCS Act.

31. Admittedly, respondent No.6 has been nominated by a society other than the sugar factory, who is not a defaulter of respondent No.5/Bank, and till date he is not declared defaulter at any point of time by any Court of law or an authority under the MCS Act, thus he would not incur disqualification.

32. So far as applicability and scope of Section 73CA(1)(f) is concerned, this Court had an occasion to deal with somewhat similar situation, where the exclusion of petitioner from the 'voters list' was subject matter of challenge on the ground of being a 'defaulter' of some other society. This Court has taken a view that on a conjoint reading of Section 73CA(1)(f) and Section 27(10) of MCS Act, a person can said to be a 'defaulter' if he is exercising his voting right in the elections of the society, of which he is a member and a defaulter. But, when he is neither exercising his voting right in the election of his parent

society nor contesting the election of the Managing Committee of the society, of which he is a member, in such situation provisions of Section 27(10) as well as 73CA(1)(i)(f) of MCS Act would not be attracted. The relevant portion of the decision in ***Writ Petition No.12431 of 2026 in Vilas Bhausaheb Dabhade Vs. The State of Maharashtra and others*** is reproduced hereinunder :

> *"**28**. In the present case also, the Petitioner is allegedly defaulter of some other Society, but he is neither casting this vote in the election of his parent society, nor contesting the election of managing committee. As such the disqualification provided under Section 27(10) as well as 73CA(1)(I)(f) of the MCS, Act, will not be attracted. The Petitioner having been appointed as delegate to cast vote for Respondent no. 6 – Society, Section 27(3) of the MCS, Act, will be applied, and the disqualification, if any incurred to Respondent no. 6 – Society, will apply to the Petitioner. Since none of the contesting respondents have raised any doubt about the entitlement of Respondent no. 6, to cast vote in elections of Respondent no. 8 – Bank, there is no disqualification attached to Respondent no. 6 to participate in election of Respondent no.8 and exercise it's right through delegation of the Petitioner. The disqualification as a defaulter, if any, incurred by the Petitioner will be applicable only while he proposes to vote in the election of the Society of which he is a member, or proposes to become a committee member. The disqualification will not be applicable when the Petitioner is exercising his right in representative capacity as a delegate of*

Respondent no. 6."

33. In the wake of the aforementioned observations, *prima facie* this Court is of the view that, the petitioner would not incur disqualification. However, the objections raised by the petitioner, can be decided only by raising dispute as provided in Section 91 of the MCS Act and Rule 78 of the Rules of 2014. Although this Court has answered the issues raised by the petitioner to some extent, but the observations made by this Court are *prima facie*.

34. In my view, the order passed by Respondent No.4 in exercise of powers under Rule 25 of Rules of 2014 does not suffer from any error or perversity. It is beyond the powers of Respondent No.4 to decide the disqualification of the nomination of Respondent No.6, on the basis of the grounds raised by the petitioner. Thus, causing interference in the election process, at this advanced stage, would not be advisable, in view of the settled position of law, laid down by the catena of judicial pronouncement, by the Hon'ble Supreme Court as wel as this Court. No case is made out by the petitioner for causing any interference in the impugned order

passed by respondent No.4. As such, the Writ petition stands dismissed.

35. However, it is made clear that, the observations made by this Court are *prima facie*, and the petitioner is at liberty to agitate his grievance, by raising dispute under Section 91 of MCS Act read with Rule 78 of Rules of 2014, which can be decided on its own merits.

36. Rule is discharged.

(MANJUSHA A. DESHPANDE, J.)

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vmk/-