

(2002) 01 BOM CK 0053
In the Bombay High Court
Case No : Writ Petition No. 4124 of 2001

Anandrao

APPELLANT

Vs

Collector, Chandrapur, Sahakari Shetki Kharedi Vikri Sanstha,
Bhadravati and Chandrapur District Central Co-operative
Bank Limited, Chandrapur

RESPONDENT

Date of Decision : 16-01-2002

Acts Referred:

Citation : (2002) 2 ALLMR 874 : (2002) 3 BomCR 27 : (2002) 2 MhLj 274

Hon'ble Judges : R.S. Mohite, J

Bench : Single Bench

Advocate : A.S. Choudhari and J. Behende, for the Appellant; Kankale, A.G.P., B.T. Patil, A.B. Patil, N.P. Dhote and J.Y. Ghurole, for the Respondent

Judgement

1. By consent Rule is made returnable forthwith.

2. The brief facts of the case are as under :-

On 8.10.2001 the Managing Committee of respondent no.2 society sent respondent no.3 as its delegate to respondent no.4 specified society. Later on 23.10.2001 the respondent no.1 published a provisional voters list. On 30.10.2001, the Annual General Meeting of respondent no.2 society suggested the name of the present petitioner as its delegate to respondent no.4 society. On 31.10.2001 an objection was raised by the petitioner before Collector, Chandrapur i.e. respondent no.1 that his name should be taken as the delegate in place of respondent no.3. The Collector heard the petitioner on his application on 10.11.2001 and by his order dated 11.11.2001, he rejected the said objection.

3. I have perused the order of the Collector. The rejection is made on the ground that the Resolution of the A.G.M. effecting the change in the delegation has been passed after the date of publication of the provisional voter list on 22.10.2001(wrongly written as 23.10.2001 in the Collectors order).

4. The reason given by the Collector is untenable, in view of the clear provisions

of Rule 5(2) of the Maharashtra Specified Co-operative Societies Election to Committees Rules, 1971. Under the aforesaid Rule 5(2), it is open for a society which has communicated the name of its delegate, to change the name of its delegate not later than 7 days before the date appointed by the Collector under Rule 16 of the said Rules for making nomination. It is not in dispute that the date appointed by the Collector under Rule 16 of the said Rules for making nomination was 7th January,2002. In the Circumstances, it was permissible for the primary society to change the name of its delegate prior to 7 days from 7.1.2002,which it purported to do by passing a Resolution of the A.G.M. on 13.10.2001.

5. In the circumstances, this petition is required to be allowed and the impugned order dated 11.11.2001 is required to be set aside.

6. Rule is made absolute, in the aforesaid terms and the order of the Collector dated 11.11.2001 is set aside and the Collector is directed to redecide the objection raised by the petitioner on 13.10.2001,afresh.

7. The Collector will independently apply his mind, after giving hearing to the petitioner as well as respondent no.3.

8. The parties will appear before the Collector on 18th January,2002 and Collector will give his decision in the matter on or before 23rd January,2002.

9. With this observation, this petition stands disposed of, at the stage of admission and rule is made absolute in above terms.

10. Parties to act on the copy of the order supplied by Steno.