

(2009) 04 BOM CK 0042
In the Bombay High Court
Case No : Writ Petition No. 6930 of 2008

Dilip Laxman Girme

APPELLANT

Vs

Bharat Prabhakar Pise and Others

RESPONDENT

Date of Decision : 02-04-2009

Acts Referred:

Citation : (2009) 3 BomCR 1

Hon'ble Judges : Mohta Anoop V., J

Bench : Single Bench

Advocate : P.S. Dani, for the Appellant; A.P. Kulkarni, for Respondent No. 1, S.P. Nikam, for the Respondent

Judgement

Mohta Anoop V., J.—The present writ petition is against the interlocutory order dated 6.8.2008 passed by the learned Additional Commissioner, Pune Division, Pune in the pending Election Petition No. PUNE/6/2007, whereby accepting the preliminary objection regarding the non joinder of necessary parties as raised by the petitioner (original respondent No. 1) is upheld. However, to meet ends of justice directed to join all the returned candidates from the six gats of the Karkhana as party respondent and also the Malegaon Sahakari Sakhar Karkhana Ltd., Shivnagar as a party respondent to the present petition.

2. Respondents 1 and 2 have challenged the election petition u/s 144T of the Maharashtra Co-operative Societies Act, 1960 (for short, "the Act"). The petitioner is elected from one Gat No. 6 out of six gats. The constituency from which the petitioner was elected consisted of 17 other Directors. Respondents, however, made party to all six candidates who had contested the election from Gat No. 6 of the Karkhana.

3. An application, therefore, was filed by the petitioner to reject the Election Petition on the ground of non-joinder of necessary parties. The learned Additional Commissioner basically accepted the preliminary objection, but to meet ends of justice and as the Election Petition is at preliminary stage of hearing and as the

written statement was also not yet filed and, therefore, in the interest of justice, directed to join all the returned candidates from six gats of the Karkhana. There is no such provision under the Act to dismiss such Election Petition at such interlocutory stage. Even otherwise, it is necessary that all necessary parties should be joined for proper adjudication of the matter. However, the direction to joint all returned candidates by Order dated 6.8.2008 though the Election Petition was filed on 6.11.2007, in which the aspect of limitation just cannot be overlooked. In a given case, it may go to the root of the matter.

4. Therefore, keeping all points open for both the parties including of delay, limitation and whether these parties are necessary parties or proper parties to the Election Petition, I am not inclined to interfere with the impugned Order dated 6.8.2008 in question. The Election Petition to proceed in accordance with law.

5. Resultantly, writ petition is disposed of in the above terms. No costs.