

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1021 WRIT PETITION NO.13292 OF 2022

DAJIGURU MAHARAJ SHETKARI DHANYA ADHIKOSH SEVA SAHAKARI
SANSTHA MARAYADIT AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

...
Advocate for Petitioners : Senior Advocate Mr. R. N. Dhorde i/b
Advocate Mr. Ghatol Patil Shahaji B.
AGP for Respondents-State : Mr. K. B. Jadhavar
Advocate for Respondent Nos.4 and 5 : Mr. S. K. Kadam
Advocate for Respondent No.7 : Mr. P. D. Bachate

...
WITH
WRIT PETITION NO.13123 OF 2022

AMBADASRAO WARPUDKAR BAHU UDDSHIYA DHANYA ADHIKOSH
SAHAKARI SANSTHA LTD. AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS

...
Advocate for Petitioners : Senior Advocate Mr. R. N. Dhorde i/b
Advocate Mr. Ghatol Patil Shahaji B.
AGP for Respondents-State : Mr. K. B. Jadhavar
Advocate for Respondent No.4 : Mr. S. K. Kadam
Advocate for Respondent No.5 : Mr. V. R. Nawathe
Advocate for Respondent Nos.6 to 9 : Mr. P. D. Bachate

...
WITH
WRIT PETITION NO.3035 OF 2023

SANT-KRUPA DHANYA ADHIKOSH SEVA SAHAKARI SANSTHA
MARAYADIT, AMDAPUR, TQ. AND DIST.PARBHANI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Senior Advocate Mr. R. N. Dhorde i/b
Advocate Mr. Ghatol Patil Shahaji B.

AGP for Respondents-State : Mr. K. B. Jadhavar
Advocate for Respondent Nos.4 and 5 : Mr. S. K. Kadam

...

WITH
WRIT PETITION NO.3567 OF 2023
WITH
CA/4276/2023 IN WP/3567/2023

JAAIPRABHU BAHU-UDDESHIYA DHANYA ADHIKOSH SAHAKARI
SANSTHA MARAYADIT, RANJALA, TQ. AUNDHA (NAGNATH),
DIST.HINGOLI AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

.....

Advocate for Petitioners : Senior Advocate Mr. R. N. Dhorde i/b
Advocate Mr. Ghatol Patil Shahaji B.

AGP for Respondents-State : Mr. K. B. Jadhavar
Advocate for Respondent Nos.5 and 6 : Mr. S. K. Kadam
Advocate for Applicant/intervenor : Mr. P. D. Bachate

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WITH
WRIT PETITION NO.3000 OF 2023

BALIRAJA SHETKARI SAMUHA KRUSHI SAHITYA PURVATHA AND
DHANYA ADHIKOSH SEVA SAHAKARI SANSTHA LTD

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Advocate for Petitioner : Mr. N. R. Pawade
AGP for Respondents-State : Mr. K.B. Jadhavar
Advocate for Respondent No.4 : Mr. S. K. Kadam

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WITH
WRIT PETITION NO.2996 OF 2023

KOHINOOR SHETKARI SAMUHA KRUSHI SAHITYA PURVATHA AND
DHANYA ADHIKOSH SEVA SHAKARI SANSTHA LTD

VERSUS

THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND

OTHERS

.....

Advocate for Petitioner : Mr. N. R. Pawade
AGP for Respondents-State : Mr. K.B. Jadhavar
Advocate for Respondent No.4 : Mr. S. K. Kadam

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WITH
WRIT PETITION NO.3001 OF 2023

WALMIKI PATHARI TALUKA SHETKARI SAMUHA KRUSHI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. N. R. Pawade
AGP for Respondents-State : Mr. K.B. Jadhavar
Advocate for Respondent No.4 : Mr. S. K. Kadam

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WITH
WRIT PETITION NO.3570 OF 2023

MAULI SHETKARI DHANYA ADHIKOSH SEVA SAHAKARI SANSTHA
LTD. KARANJI
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

.....

Advocate for Petitioner : Mr. N. R. Pawade h/f Mr. V. G. Shelke
AGP for Respondents-State : Mr. K.B. Jadhavar
Advocate for Respondent No.4 : Mr. S. K. Kadam

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CORAM : ARUN R. PEDNEKER, J.

**Date of Reserving the Order :
29/03/2023**

**Date of Pronouncing the Order :
31/03/2023**

ORDER :

1. By the present writ petitions, the petitioners are challenging the order dated 12/12/2022 passed by the respondent No.5 the District Election officer (APMC) And District Dy. Registrar Cooperative Societies Parbhani.

2. The present bunch of writ petitions involve common question of law and relates to the rejection of the petitioner societies objections/claim by the respondent No.5 District Election officer (APMC, Parbhani), for inclusion of their names in the final voters list of the APMC respondent No.6. All the petitions involve common question and hence are taken up together for disposal. The facts are taken from Writ Petition No.13292 of 2022, Dajiguru Maharaj Shetkari Dhanya Adhikosh Seva Sahakari Sanstha Marayadit, Dhnagar Talaki, Tq. Purna, Dist. Parbhani and others Vs. The State of Maharashtra and Others.

3. Brief facts giving rise to the filing of the present writ petitions can be summarized as under :-

The petitioners societies were included in the voters list of the respondent No.6 the Agricultural Produce Market Committee Purna,

Tq. Purna, Dist.Parbhani in the last elections held in the year 2016-2017. On 08/04/2022, the Commissioner of Corporation issued a general direction for reclassification of Dhanya Adhikosh Societies as General Societies and issued further direction to accept model bye-laws for all the Dhanya Adhikosh Societies. Some of the Dhanya Adhikosh Societies challenged the general direction of the Commissioner of Corporation before the Hon'ble Minister under Section 152 of the Maharashtra Cooperative Societies Act. After considering the matter, the Minister rejected the revision petition filed by those petitioners. Thereafter, writ petition was filed in this Court challenging the order passed by the Minister. This Court, by common order dated 08/03/2023, in Writ Petition No.11921 of 2022 and other petitions set aside the order passed by the Hon'ble Minister so also the order passed by the Commissioner of Corporation dated 08/04/2022 so far as it was made applicable to the petitioners therein.

4. The present petitioners are similarly placed Dhanya Adhikosh Societies to those petitioners in Writ Petition No.11921 of 2022. During the pendency of the above Writ Petition No.11921 of 2022 before the High Court, the respondent No.5 issued programme for

finalization of voters list of respondent No.6 (APMC). Provisional voters list was published on 21/11/2022, and claims and objections were invited up till 30/11/2022. The date for decision on claim and objection was scheduled on 12/12/2022 and the final voters list was published on 19/12/2022. On 25/11/2022 the petitioner societies raised objection to the provisional voters list as their names were not included in the provisional voters list. In their support, the petitioner societies produced its bye-laws and contended that the petitioners are Resource societies with sub-classification of agricultural resource societies. The petitioners have also contended that they have an object of giving crop loans to its members. They have also disbursed crop loan to its members.

5. On 19/12/2022, the respondent No.5 passed order on the objections raised by the petitioners and published final voters list of the APMC, thereby rejecting the objections raised by the petitioners. By the impugned orders dated 19/12/2022, the respondent No.5 primarily accepted the report given by the Sub-Registrar of Cooperative Societies wherein it was observed :-

(a) There is a general direction issued by the Commissioner of corporation on 08/04/2022 to reclassify the societies as general societies, and that the Hon'ble

Minister of Corporation has dismissed appeal filed under Section 152 of MCS Act. The said order is challenged before the High Court by filing writ petitions, however, the High Court had not granted Stay, and as such, the societies are classified as general societies.

(b) In the case of some of the petitioners societies it was noticed from the audit of the said petitioner societies that there is crop loan distributed to its member, but there is no object in the bye-laws of the society of giving crop loan to its members. But in case of other petitioner societies it was observed that there is no object in the bye-laws of the society of giving crop loan to its members nor any 'crop loans' were given to its members.

6. The report of the Sub-Registrar of Cooperative Societies was accepted by the Election officer, and as such, the objection/claim of the petitioners to be included in the final voters list was rejected. It is the consistent observation in the impugned orders as regards all the petitioners that there is no object of giving crop loans in the bye-laws of the petitioner societies to its members. The petitioners have challenged the order passed by the Election Officer in the present writ petition.

7. It is the contention of the petitioners that the general

directions issued by communication dated 08/04/2022 by the Commissioner of Corporation for reclassifying the petitioner societies from Resource Societies to the General Societies was challenged by the some of the societies before the Hon'ble Minister under Section 152 of the Maharashtra Cooperative Societies Act. The Minister had dismissed the petition of the petitioners therein. However, the order passed by the Minister was challenged before the High Court and the High Court has been pleased to set aside the order passed by the Hon'ble Minister. The High Court has held that, there can be no general direction to reclassify the petitioner societies without notice to the individual petitioner societies. The present petitioner societies being similarly placed are covered within the general order dated 08/04/2022 of the Commissioner of Corporation, as such the observation by the Sub-Registrar in its report to the election authority that the petitioners are General Societies, is erroneous. The petitioners are Resource Societies with sub-classification as general resource societies and that they also have a provision of granting crop loan facilities, to its members, in its bye-laws.

8. The learned Advocate for the petitioners on the aspect of grant of crop loan to its members, submit that the bye-laws of the

petitioner societies and so also the bye-laws of the Vivid Karyakari Seva Sahakari Sanstha (VKSS) societies, which are included in the final voters list are identical. The petitioner societies, so also the VKSS Societies which are on the final voters list of the APMC have identical object in its bye-laws of giving crop loan to its members, and thus, only the petitioners have been singled out on account of political rivalry and for keeping the Dhanya Adhikosh Societies beyond the purview from contesting the elections to the APMC.

9. The petitioners also submit that the registration of the amended bye-laws of the society is kept pending by the District Deputy Registrar, (who is also the respondent No.5 election authority), and had acted partial, and under the political influence so as to deprive the petitioner societies from contesting the election to APMC.

10. Per contra, the learned Advocate appearing for the election authority submits that the petitioner societies are not disbursing crop loan to its members nor their bye-laws specify that they are granting crop loans to its members.

11. The learned counsel for the election authority submits that this

Court had set aside the order passed by the Minister, so also the order of the Commissioner dated 08/04/2022 reclassifying the petitioner societies in W.P.No. 11921 of 2022 from Dhanya Adhikosh Societies to General Societies. However, this Court has set aside the above order of Commissioner only to the extent of the petitioners in the writ petitions, and that the general direction contained in said order dated 08/04/2022 is not set aside in its entirety. However, the learned Advocate for election authority Mr. S. K. Kadam has not disputed that the petitioner Dhanya Adhikosh Societies are identical to the petitioner societies in Writ Petition No.11921 of 2022.

12. The learned Advocate Mr. S. K. Kadam further submits that the inquiry conducted by the election authority is summary in nature and that the election authority on the basis of material has summarily rendered a finding that the petitioner societies are not having object in its bye-laws of disbursing crop loan, and accordingly has rejected the objections of the petitioners.

13. In the course of the arguments before me, the issue that was seriously canvassed before me was that the petitioner societies are not having the object of disbursing "Crop Loan to its members" in its bye-laws. In view of the amended Section 13 (1) (a) (i) of the

APMC Act, the petitioners are not eligible to contest the elections for the APMC irrespective of the fact whether they would be classified as Resource Societies with sub-classification of service resource societies. The petitioners do not have the object of granting credit to its members as 'Crop Loans'. There is an observation of the disbursement of crop loan in the report of the respondent No.3, but the object does not specify that the said petitioner societies are entitled to disburse the crop loan.

14. In order to appreciate the issue raised, it is necessary to compare the model bye-laws of the petitioner societies and the Vivid Karyakari Seva Sahakari Sanstha (VKSS) which are included in the final voters list of APMC. It is first necessary to quote the amended relevant provision of Section 13 (1) (a) (i) of the Maharashtra Agricultural Produce Marketing (Development and Regulation Act, 1963 and Rules, 1967 (Amended Act), it reads as under :-

"13. Constitution of Market Committees

(1) Subject to the provisions of sub-section (2) every Market Committee shall consist of the following members, namely :-

[(a) "fifteen agriculturists residing in the market area (being persons who are not less than (twenty one years of the age on the date specified, from time to time, by the State Co-operative Election Authority, if required with the help of the

Collector or the District Deputy Registrar, as the case may be,]
in this behalf), as specified below :-]

[(i) eleven (of which, two shall be women, one shall be a person belonging to Other Backward Classes and one shall be a person belonging to De-notified Tribes (Vimukta Jatis) or Nomadic Tribes) shall be elected by members of the Managing Committees of the Agricultural Credit Societies and Multi-purpose Co-operative Societies (within the meaning of the Maharashtra Co-operative Societies Act, 1960 and the rules made thereunder) [which disburse the crop loan to its members,]
functioning in the market area.”

15. The words, “which disburse the crop loan to its members” in Section 13 (1) (a) (i) of the APMC Act, are inserted with effect from 28/03/2022. Thus, although the petitioners were in the earlier voters list for the last elections, they have to qualify in terms of the amended provision of Section 13 (1) (a) (i) to be on the voters list of the APMC. The petitioner societies will have to demonstrate that they have an object of disbursal of the crop loan to its members and that they have been disbursing the crop loan to its members.

16. The relevant bye-laws relied upon by the petitioner societies to show that they have object in its bye-laws to disburse the crop loan to its members are bye- laws Nos.4 and 5. The bye-laws No.4 and 5

in the objects of the petitioner society reads as under :-

iv. संस्थेने सभासद व इतर सभासदांना निर्भळ व उच्चप्रतीच्या शेतमालाबरोबर भाजीपाला व फळ फळावळ इ. माल उत्पादनास प्रोत्साहन देणे.

v. शेतकऱ्यांना शेतीचा माल साठविण्यासाठी गोदाम व शितगृहांची व्यवस्था करणे, संस्थेचे शितगृहे, गोदाम निर्माण करणे, एन.सी.डी.सी. व जिल्हा मध्यवर्ती सहकारी बँके सारख्या वित्तीय संस्थां कडून सभासदांना आवश्यक तो कर्जपुरवठा करणे.

(English Translation -

iv. The Society is required to encourage the members and others to produce pure and high quality agricultural goods along with vegetables and fruits.

v. To make available warehouses and cold storage to store the agricultural goods of farmers, to construct society's warehouses and cold storage and provide agricultural loan from the financial institutions like N.C.D.C. and District Central Co-operative banks.)

Relying upon bye-laws No.4 and 5 in the objects of the petitioner society, the petitioners contend that they have an object of disbursal of crop loan. The petitioners have also relied upon the bye-laws of one of the VKSS societies which is on the final voters list of the APMC, for comparison purpose.

17. The model bye-laws of the VKSS societies, which are on the provisional voters list of APMC indicate that they are the Resource Society and sub-classified as Service Resource Society. The relevant

bye-laws of the VKSS societies which are pointed out as having object of giving crop loans to its members is as under :-

संस्थेचे उद्देश खालीलप्रमाणे असतील -

२. सदस्यांमध्ये मुख्यतः शेतकीविषयक गरजा भागविण्याकरिता माफक व्याजाच्या दराने त्यांना अल्प, मध्यम तसेच दीर्घ मुदतीने कर्जासु रकमा देण्यासाठी उपविधी क्रमांक ५ मध्ये नमूद केलेल्या साधनांचे द्वारा भांडवल जमविणे.

६. शेतीमालाच्या तारणावर आगासु रकमा (एँडव्हान्सेस) देणे.

१३. सभासदांना नाबार्डच्या मार्गदर्शक सुचनांनुसार वित्तीय संस्थेकडून अल्प, मध्यम मुदत व दीर्घ मुदतीचा कर्जपुरवठा संचालक मंडळाने तयार व मंजूर केलेल्या आणि संस्थेच्या सर्वसाधारण सभेने मंजूर केलेल्या धोरणानुसार खालीलप्रमाणे उपलब्ध करता येईल -

ई. दुग्धव्यवसायाकरिता मध्यम मुदतीचा कर्जपुरवठा करणे.

त्याचबरोबर बँक धोरणात वेळेवेळी होणा-या बदलाप्रमाणे कर्जाच्या योजना सभासदांच्या हिताकरिता राबविण्याच्या व त्याप्रमाणे कर्जपुरवठा करण्याचा अधिकार संस्थेस राहिल. त्यात परत पोटनियम दुरुस्ती करण्याची आवश्यकता असणार नाही.

(English Translation -

The objectives of the society shall be as followed -

2. To raise capital through the means mentioned in By-law No. 5 to provide short, medium and long term loans to the members mainly for meeting their agriculture needs at moderate interest rate.

6. To disburse the advances on the mortgaged agricultural goods.

13. According to the N.A.B.A.R.D. guidelines, short. Medium and long term loans from the financial institution can be available to the members as per the policy made and approved by the Board of Directors and the general meeting of the

society as follows.

- e. At the same time, the society will have the right to implement the loan schemes for the benefit of the members and provide loans accordingly as per the changes in the bank policy from time to time. There will be no need to amend the By-laws again.)

18. The learned Advocate also submitted that the crop loans are distinct from the other loans issued for agricultural purposes and as an example of the crop loans being given, he had produced the booklet of Parbhani Zilla Madhyawarti Sahakari Bank Limited showing the crop loan policy in terms of the guidelines issued by the Rashtriya Krushi Va Gramin Vikas Bank (NABARD). He submitted that the crop loans are distributed seasonally and had given an example as under :-

बँक पातळीवरील कर्जाच्या परतफेड तारखा

पीकाचा प्रकार	कर्जवितरण आरंभ	अंतीम तारीख	परतफेडीची तारीख
खरीप पिके	०१.०४.२०२२	३०.०९.२०२२	३१.०३.२०२३
रब्बी पिके	०१.१०.२०२२	३१.०३.२०२३	३०.०६.२०२३
जुस सुरु / खोडवा	०१.१२.२०२२	३०.०४.२०२३	३०.०६.२०२३
केळी	०१.०७.२०२२	३१.१०.२०२२	३०.०६.२०२३
इतर बागायत पिके (उन्हाळी पिके)	०१.०१.२०२३	३१.०३.२०२३	३०.०६.२०२३

(English Translation -

Loan Repayment Dates at Bank Level.

Types of Crops	Commencement of Disbursement of loans	Closing date	Date of repayment
Kharif crops	01-04-2022	30-09-2022	31-03-2023
Rabi crops	01-10-2022	31-03-2023	30-06-2023
Commencement of Sugarcane crop/ The second crop of sugarcane(The stock left to re shoot)	01-12-2022	30-04-2023	30-06-2023
Banana	01-07-2022	31-10-2022	30-06-2023
Other irrigated crops (Summer Crops)	01-01-2023	31-03-2023	30-06-2023

If we look at the object of the petitioners societies as quoted in the bye-laws, the petitioner do not have the objects of disbursal of the "Crop Loan to its members," though the bye-law provides for providing agricultural loans from financial institution like DCC Bank to its members. "Crop Loans" being a distinct category of loan is given primarily to cover the cost of cultivation in the cultivation season and is repaid at the end of the season.

19. It is to be noted that the petitioners have applied for Registration of amended bye-laws wherein the words are inserted in the object of society in bye-law No.5 for distribution of the "Crop Loans". The application for registration of amended bye-laws was

pending. Thereafter, the petitioners have applied to this Court for a writ seeking a direction to decide the application for registration of amendment in bye-laws wherein the amended bye-laws would include the clause for disbursal of crop loan as one of its object. This Court, in Writ *Petition No.12999 of 2022, by order dated 22/12/2022 (Coram : Ravindra V. Ghuge and Sanjay A. Deshmukh, JJ.)*, directed the authorities to decide the petitioners application for registration of bye-laws. Thus the petitioners as on the date of deciding their claim/objection to the provisional voters list of the APMC, the petitioner societies were not in conformity with the requirement of Section 13 (1) (a) (i) of the APMC Act. It is only when the petitioners would have one of its object in its bye-laws as "disbursal of crop loan to its members", and thereafter, *de facto* grants crop loans to its members that the petitioners would be eligible in terms of Section 13 (1) (a) (i) of the APMC Act to be the voters of the APMC.

20. Section 13 of the Cooperative Societies Act provides for registration of amended bye-laws, it reads as under :-

"13. Amendment of bye-laws of society

(1) No amendment of the bye-laws of a society shall be valid until registered under this Act. For the purpose of

registration of an amendment of the bye-laws, a copy of the amendment passed, in the manner prescribed, at a general meeting of the society, shall be forwarded to the Registrar. [Every application for registration of an amendment of the bye-laws shall be disposed of by the Registrar within a period of two months from the date of its receipt].

[(1A) Where there is a failure on the part of the Registrar to dispose of such application within the period aforesaid, the Registrar shall, within a period of fifteen days from the date of expiration of that period refer the application to the next higher officer and where the Registrar himself is the registering officer, to the State Government, who or which, as the case may be, shall dispose of the application within two months from the date of its receipt and on the failure of such higher officer or the State Government, as the case may be, to dispose of the application within the period, the amendment of the bye-laws shall be deemed to have been registered.

(1B) No amendment of the bye-laws of a society shall be registered by the Registrar under this section or in the case of the bye-laws which are deemed to have been registered shall have effect, if the amendment is repugnant to the policy directives, if any, issued by the State Government under section 4.].

(2) When the Registrar registers an amendment of the bye-laws of a society [or where an amendment of the bye-laws is deemed to have been registered] he shall issue to the society a copy of the amendment certified by him, which shall

be conclusive evidence that the same is duly registered.

(3) Where the Registrar refuses to register [such amendment], of the bye-laws of a society, he shall communicate the order of refusal; together with his reasons therefor, to the society."

Section 13 of the Maharashtra Cooperative Societies Act provides that the amendment of the bye-laws of a society shall not be valid until registered under the Maharashtra Cooperative Societies Act. It further provides that, when the Registrar registers an amendment of the bye-laws of a society or where an amendment of the bye-laws is deemed to have been registered, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered. Thus, at the time of scrutiny of the objections, by the election authority the petitioner societies did not have a valid registered amended bye-laws including the object of giving crop loans to its members in its bye-laws.

21. The respondent No.5 authority has passed an order based on the material as was available before him. The impugned order passed by the respondent No.5 cannot be said to be patently illegal

as regards the bye-law not containing the provision of “disbursal of crop loan” is concerned.

22. The present writ petitions relates to the elections of the APMC and the law on the interference in the election process is well settled. This Court would ordinarily not interfere with the election process unless there is a patent illegality. The order passed by the respondent No.5 is not patently illegal. It is an order based on the material as was available before him at the time of passing the order. Thus, these petitions are disposed of with liberty to the petitioners to raise their grievance before any forum as may be available in law.

23. All writ petitions are disposed of with the above observations. Pending Civil application is also disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.