



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4582 OF 2023

1. Sindhpana Matsya Vyavsay
Sahakari Sanstha Ltd., Bhoi Galli,
Majalgaon, Tq. Majalgaon, Dist. Beed,
Through its Secretary,
Gopinath Umaji Bhujange,
Age : 41 years, Occ. : Fisherman,
R/o. : Majalgaon, Tq. Majalgaon, Dist. Beed
2. Umaji Kashinath Bhujange
Age : 60 years, Occ. : Business,
R/o. : Hanuman Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
3. Bapurao Gangaram Hirwe
Age : 55 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
4. Laxman Malhari Ghene
Age : 60 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
5. Thakuji Nagnath Ghene
Age : 55 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
6. Laxman Anjaji Kajale
Age : 58 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
7. Sitaram Malhari Ghene
Age : 65 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed

8. Prakash Umaji Bhujange
Age : 35 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
9. Santaram Pemaji Bhujange
Age : 60 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
10. Datta Kisan Awale
Age : 45 years, Occ. : Agril.,
R/o. : Ajat Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
11. Gopinath Umaji Bhujange
Age : 41 years, Occ. : Fisherman,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
12. Ashok Umaji Bhujange
Age : 30 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
13. Raju Ganpat Bhujange
Age : 38 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
14. Asaram Kashinath Bhujange
Age : 50 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
15. Anil Umaji Bhujange
Age : 28 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
16. Dilip Suresh Bhujange
Age : 31 years, Occ. : Service,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed

17. Limbaji Shankar Bavne
Age : 28 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
18. Rajebhau Shankar Bavne
Age : 26 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
19. Ramkishan Santaram Bhujange
Age : 24 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
20. Babasaheb Bapurao Ghene
Age : 55 years, Occ. : Agril.,
R/o. : Kaikad Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
21. Narayan Rangnath Ghene
Age : 55 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
22. Bhagwan Rangnath Ghene
Age : 50 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
23. Gopal Saloje Jamdhade
Age : 55 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
24. Sukhaji Gunaji Ghene
Age : 45 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
25. Anna Nagnath Ghene
Age : 45 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed

26. Punjaram Kisan Ghene
Age : 30 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
27. Madhukar Fakira Jamdhade
Age : 45 years, Occ. : Agril.,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
28. Namdev Laxman Ghene
Age : 30 years, Occ. : Agril.,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
29. Narayan Laxman Ghene
Age : 35 years, Occ. : Agril.,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
30. Lala Zungagi Jamdhade
Age : 50 years, Occ. : Agril.,
R/o. : Old Bazar, Majalgaon,
Tq. Majalgaon, Dist. Beed
31. Keshav Nagnath Ghene
Age : 40 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
32. Kishor Radhakishan Ghene
Age : 28 years, Occ. : Agril.,
R/o. : Old Bazar, Majalgaon,
Tq. Majalgaon, Dist. Beed
33. Subhash Limbaji Ghene
Age : 40 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
34. Prakash Shravan Ghene
Age : 30 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed

35. Santosh Gopal Jamdhade
Age : 35 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
36. Ravi Bhagwan Ghene
Age : 30 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
37. Manoj Narayan Ghene
Age : 28 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
38. Mugagi Thakuji Ghene
Age : 28 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
39. Sachin Anna Ghene
Age : 24 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
40. Haribhau Laxman Gavte
Age : 40 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
41. Ram Anjaji Kajale
Age : 60 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
42. Sanjay Ram Kajale
Age : 39 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
43. Santosh Laxman Kajale
Age : 33 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed

44. Subhash Kanoji More
Age : 30 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
45. Baban Tukaram Shinde
Age : 50 years, Occ. : Agril.,
R/o. : Indira Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
46. Kishor Baban Shinde
Age : 60 years, Occ. : Agril.,
R/o. : Indira Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed
47. Kishan Indrappa Pable
Age : 60 years, Occ. : Agril.,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed

... PETITIONERS

VERSUS

1. The Taluka Cooperative Election Officer
and Assistant Registrar,
Cooperative Societies (Dairy)
Beed, Dist. Beed
2. Returning Officer,
Shri. D.V. Aade
Age : 56 years, Occ. : Service,
C/o. : District Special Auditor Class-II,
Co-operative Societies,
(Pa.Du.Ma) Parbhani
3. Shri. Z.K. Sonwane
(Chief Administrative Officer
Sindhphana Matsya Vyaysay
Sahakari Sanstha Ltd., Majalgaon)
Age : 55 years, Occ. : Service,
R/o. : Milk Collection Instructor,
Zilla Dugdha Vyavsay Vikas
Adhikari Karayalay, Barshi Road, Beed
4. Maharudra Uttam Ghene
Age : 48 years, Occ. : Business,

R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed

5. Sunil Munjaba Ghene
Age : 48 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
6. Renuka Lala Ghene
Age : 55 years, Occ. : Household,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
7. Gangadhar Govind Ghene
Age : 28 years, Occ. : Business
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
8. Anil Lala Ghene
Age : 25 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
9. Ganesh Ram Hirve
Age : 30 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
10. Sunil Uttam Ghene
Age : 42 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
11. Umesh Vishwanath Ghene
Age : 30 years, Occ. : Business,
R/o. : Bhoi Galli, Majalgaon,
Tq. Majalgaon, Dist. Beed
12. Satva Sonaji Ghatmal,
Age : 45 years, Occ. : Business,
R/o. : Phule Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed

... RESPONDENTS

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Mr. D.P. Palodkar h/f. Mr. S.S. Khoche – Advocate for Petitioners
Mr. S.K. Kadam – Advocate for Respondent No.1
Mr. K.J. Suryawanshi – Advocate for Respondent Nos.4, 5, 9 and 10
Mr. B.A. Shinde – AGP for Respondents, State

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CORAM : SIDDHESHWAR S. THOMBRE, J.
RESERVED ON : 13.02.2026
PRONOUNCED ON : 04.03.2026

J U D G M E N T :

1. Heard. **Rule.** Rule made returnable forthwith. By consent of the parties, the petition is taken up for final hearing at the stage of admission.

2. The petitioners are aggrieved by the order dated 31.10.2022 passed by the Member, Maharashtra State Co-operative Appellate Court, Mumbai, Bench at Aurangabad in Appeal No.7 of 2022, whereby appeal filed by respondent Nos.4 to 12 came to be allowed.

3. **Brief facts of the case are as under :**

Petitioner No.1 is a Co-operative Society and petitioner Nos.2 to 10 are its members. The petitioners are the original opponents in Dispute No.125 of 2015 filed before the Co-operative Court at Latur. Respondent Nos.4 to 12 are the disputants, claiming themselves to be members of the Society. In Dispute No.125 of 2015, the election result dated 15.02.2015 was challenged and a prayer was made for holding fresh elections of petitioner No.1–Society.

After hearing both sides and considering the evidence on record, the learned Judge dismissed Dispute No.125 of 2015. Being aggrieved thereby, respondent Nos.5 to 12 preferred Appeal No.106 of 2017. The Appellate Court partly allowed the appeal and set aside the judgment and order dated 28.06.2017 passed by the Judge, Co-operative Court, Latur, and remanded the matter with a direction to frame proper issues.

The petitioners challenged the said order by filing Writ Petition No.6468 of 2018 before this Court. However, as the trial had already commenced before the Co-operative Court after remand, this Court disposed of the writ petition on 09.12.2019, granting liberty to the petitioners to raise all objections before the Co-operative Court.

After remand, the learned Judge, Co-operative Court again dismissed the dispute by order dated 16.12.2021. Being aggrieved thereby, respondent Nos.4 to 12 preferred Appeal No.7 of 2022. The Appellate Court allowed the appeal. Hence, the present petition.

4. Learned Counsel, Mr. D.P. Palodkar holding for Mr. S.S. Khoche, for the petitioners strenuously submitted that the election dispute was filed challenging the election results and incidentally raising the issue of membership. After appreciating the evidence, the Co-operative Court recorded findings that the members were enrolled in the Annual General Meetings held on 13.08.2010, 14.08.2004 and 15.07.2002. The said

resolutions were never challenged and the names of the members appeared in the 'I' and 'J' Registers. Therefore, a presumption was rightly drawn that they were legal and valid members. It was further submitted that the Appellate Court failed to consider the substantive evidence in the form of 'I' and 'J' Registers and membership fee receipts proved through the Secretary. According to the petitioners, once the resolutions enrolling members were not challenged, the Appellate Court ought not to have interfered.

5. Heard learned A.G.P. for respondents, State authorities, learned Counsel – Mr. S.K. Kadam for respondent No.1 and learned Counsel – Mr. K.J. Suryawanshi for respondent Nos.4, 5, 9 and 10. They supported the impugned order and submitted that by amendment, specific averments were made in paragraph 53 (a) of the dispute challenging the validity of the alleged members. He pointed out that neither in the written statement nor in the evidence was there any material placed to show that the alleged members had submitted applications for membership or paid requisite membership fees and share capital. He invited attention to the cross-examination of the Secretary, wherein it was admitted that though certain persons had paid some amounts, share amounts were not paid by them. It was also admitted that only 34 persons were actual members and the remaining 60 were not members of the Society. He further submitted that in earlier proceedings, the issue of

membership was not conclusively decided. Therefore, the Appellate Court rightly held that mere entry of names in the 'I' and 'J' Registers does not confer valid membership.

6. After hearing learned Counsel for the respective parties and considering the material on record, it is evident that before the Co-operative Court, the petitioners relied mainly on the 'I' and 'J' Registers to establish membership. However, once the disputants specifically challenged the validity of such membership, it was incumbent upon the petitioners to prove due admission to membership in accordance with law. It is useful to refer to Section 2(19)(a) of the Maharashtra Co-operative Societies Act, 1960, (*for short "said Act"*) which reads as under :

(19) (a) "member" means a person joining in an application for the registration of a Co-operative society which is subsequently registered, or a person duly admitted to membership of a society after registration and includes a nominal, associate or sympathizer member;

(b) "Associate member" means a member who holds jointly a share of a society with others, but whose name does not stand first in the share certificate;

(c) "Nominal member" means a person admitted to membership as such after registration in accordance with the bye-laws;

which defines "member" as a person duly admitted to

membership of a society after registration.

7. Considering above provisions, the petitioner had not placed on record any application submitted by the petitioner for membership and even there was no record to show that the membership fees was deposited either with the bank or with the society and therefore to that effect the petitioner has not laid evidence and therefore it is clear that without there being any application for membership there names were inserted in I and J register.

8. Further, Section 22 of the said Act provides for persons who may become members, which reads as under :

“22. Person who may become member.—

(1) Subject to the provisions of section 24, no person shall be admitted as a member of society except the following, that is to say-

(a) an individual; who is competent to contract under the Indian Contract Act, 1872,

(b) a firm, company or any other body corporate constituted under any law for the time being in force, or a society registered under the Societies Registration Act, 1860;

(c) a society registered, or deemed to be registered under this Act;

(d) the State Government or the Central Government;

(e) a local authority;

(f) a public trust registered under any law for the time

being in force for the registration of such trusts :.....”

9. Further Section 23 (1A) deals with open membership, while Section 24 pertains to nominal and associate members, which read as under :

“23. Open membership

(1) No society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefore under the provisions of this Act and its bye-laws.

(1-A) Where a society refuses to accept the application from an eligible person for admission as a member, or the payment made by him in respect of membership, such person may tender an application in such form as may be prescribed together with payment in respect of membership, if any, to the Registrar, who shall forward the application and the amount, if any so paid, to the society concerned within thirty days from the date of receipt of such application and the amount; and thereupon if the society fails to communicate any decision to the applicant within sixty days from the date of receipt of such application and the amount by the society, the applicant shall be deemed to have become a member of such society. If any question arises whether a person has become a deemed member or otherwise, the same shall be decided by the Registrar after giving a reasonable opportunity of being heard to all the concerned parties.

(2)

(3)

(4)

24. Nominal, associate and sympathizer member

(1) Notwithstanding anything contained in section 22, a society may admit any person as a nominal, associate or sympathizer member.

(2) A nominal member or sympathizer member shall not be entitled to any share in any form whatsoever in the profits or assets of the society as such member. A nominal or sympathizer member shall ordinarily not have any of the privileges and rights of a member, but such a member, or an associate member, may, subject to the provisions of sub-section (8) of section 27, have such privileges and rights and be subject to such liabilities, of a member, as may be specified in the bye-laws of the society.”

10. A conjoint reading of these provisions makes it clear that to become a member of a co-operative society, a person must submit an application for membership and comply with the requirements of payment of membership fees and share capital in accordance with the bye-laws.

11. In the present case, no applications for membership were produced. There was no documentary evidence to show deposit of membership fees or share capital either in the Society's account or otherwise. Mere production of receipts without corresponding proof of lawful admission and compliance with statutory requirements is insufficient. Therefore, the Appellate Court rightly recorded a finding that mere inclusion of names in the 'I' and 'J' Registers would not confer valid

membership in the absence of proof of lawful admission. The Co-operative Court had proceeded on a presumption solely based on register entries, without there being foundational evidence of compliance with statutory requirements.

12. In supervisory jurisdiction under Article 227 of the Constitution of India, this Court does not find any perversity to interfere with the order dated 31.10.2022 passed by the Member, Maharashtra State Co-operative Appellate Court Mumbai, Bench at Aurangabad in Appeal No. 7 of 2022. Hence, passed following order :

ORDER

- (a) The Writ Petition stands dismissed.
- (b) There shall be no order as to costs.
- (c) Accordingly, rule is discharged.
- (d) Pending Civil Applications, if any, also stand disposed of.

[SIDDHESHWAR S. THOMBRE]
JUDGE