

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.1894 OF 2015

Badrinath S/o Rajaram Sable
Age: 48 years, occu: Agriculture
R/o Pimparkhed, Tq. Wadwani
District: Beed

Petitioner

Versus

1 The State of Maharashtra
through: Co-operation & Textile Department,
Mantralaya, Mumbai – 32

2 The Taluka Co-operative Election Officer
& Assistant Registrar – Cooperative Societies
Wadwani, tq. Wadwani, Dist. Beed

3 Mr. M.K. Chavan,
Returning Officer,
Seva Sahakari Society Maryadit
Pimparkhed, tq. Wadwani
Dist. Beed

4 The Secretary
Seva Sahakari Society Maryadit
Pimparkhed, tq. Wadwani
Dist. Beed

Respondents

Mr. B.R.Sable advocate for the petitioner
Mr. S.S.Tope, GP for Respondents No.1 & 2
Mr. A.B. Kharosekar advocate for respondent Nos.3 & 4
Mr. V.D. Kadam advocate for caveator

CORAM : R.M. BORDE &
P.R. BORA, JJ

Dated : 10th March, 2015.

ORAL JUDGMENT
(PER: R.M. BORDE, J)

1. Heard. Rule. With the consent of the parties, petition is taken up for final disposal at admission stage.

2 Petitioner is taking objection to the order passed by the Election officer on 12.2.2015, thereby directing deletion of names of about 174 voters, whose names appear in the provisional voters list, published earlier, in accordance with Rule 6 of the Maharashtra Cooperative Societies (Election Committee) Rules, 2014.

3 The petitioner contends that, the Returning Officer has proceeded to delete the names of such voters, on consideration of three different objections raised by the interested persons. The petitioner objects to the action mainly on the ground that, before directing deletion of names, no opportunity of hearing was extended to the concerned voters, whose names were sought to be deleted. Sub Rule 3 of Rule 8 of The Maharashtra Co-operative Societies (Election To Committee) Rules, 2014 provides that, the District Co-operative Election Officer or Taluka or Ward Co-operative Election Officer shall, or as directed by the SCEA, after making such inquiries, as deemed necessary in this behalf,

consider each claim or objection, and give his decision thereon, in writing to the persons concerned, within ten days from the last date prescribed for receiving the claims and objections. Thereafter final voters list should be published within a period of fifteen days from the last date, prescribed for receiving the claims and objections. The term '*after making such an enquiry as deemed necessary*' thus impliedly indicates observance of principles of natural justice. The names of about 174 voters were enlisted in the preliminary voters list and they did not have any notice that on consideration of the objections of the objectors, their names would be deleted. Neither the concerned individual voter, nor anybody amongst them has been extended an opportunity of hearing to contest the objections.

4 Considering the facts and circumstances of the case, we are of the view that, the action of the Returning Officer of deleting names of 174 voters, who were enlisted in the preliminary voters list, without extending them or any of them an opportunity of hearing, is illegal and as such, such action deserves to be quashed and set aside and it is accordingly quashed and set aside.

5 It would be open for the Returning Officer to publish an advertisement in the manner deemed appropriate, thereby extending notice to the other voters, whose names are proposed

to be deleted. On consideration of the objections by the objectors, on prescribed date and after considering the contentions of such voters whose names are proposed to be deleted, the Returning Officer shall proceed to take appropriate decision in accordance with the provisions of The Maharashtra Co-operative Societies Act of 1960 and the Maharashtra Co-operative Societies (Election To Committee) Rules 2014.

6 The Returning Officer, in observance of the directives, as recorded above, shall finalize the list of voters, as expeditiously as possible and preferably within a period of two weeks from today.

7 Rule is accordingly made absolute in above terms.

8 The Authorities to act upon authenticate copy of this order.

(P.R. BORA, J)

(R.M.BORDE, J)