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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.2367 OF 2015

Waman Tulsiram Ubale.

..Petitioner

-Versus-

The Assistant Registrar,

Cooperative Societies, Jalna and others.

..Respondents

.....

Mr.G.B.Kulkarni, Advocate for the Petitioner.

Mr.K.M.Suryawanshi, AGP, for the Respondent No.1/State.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 02nd March, 2015

Per Court:

- 1 The grievance of the Petitioner is set out as follows:-
- (a) The election programme for conducting elections to the Respondent No.2 Cooperative Society is declared on 17.01.2015.
 - (b) The provisional voters list was published on 17.01.2015.
 - (c) The period for raising objections to the provisional voters list was from 17.01.2015 upto 21.01.2015.
 - (d) The Petitioner raised objection on 04.02.2015 before the Respondent No.1 for questioning the inclusion of several persons as valid voters out of whom the Respondent Nos.8

and 9 are contesting the elections.

- (e) Bye-law 6(3) mandates that a valid voter should be an account holder from the area covered by the Society and should be holding 10 R land in the said area.
- (f) The Talathi of Sajja Hivada and Sajja Ner, Taluka and District Jalna have issued the certificates dated 04.02.2015 and 25.02.2015 to indicate that the Respondent Nos.8 and 9 respectively do not hold any land in Takarwan and Ner villages.
- (g) The Respondent Nos.8 and 9 are, therefore, illegally included in the voters list and they are now contesting the elections to the Respondent No.2 Society.

2 The learned AGP appearing on behalf of the Respondent No.1 points out that the period for raising objections to the provisional voters list was between 17.01.2015 to 21.01.2015. The Petitioner has raised the objection on 04.02.2015. The certificates relied upon are dated 04.02.2015 and 25.02.2015 for opposing the inclusion of the Respondent Nos.8 and 9 in the voters list and their contesting the election.

3 The grievance of the Petitioner as against the Respondent Nos.4 to 9 cannot be gone into at this stage since the elections are

scheduled on 03.03.2015 (which is tomorrow) and the results would be declared after 03:00 pm on the same date.

4 This Court has delivered a judgment dated 05.02.2015 in **Writ Petition No.545/2015** in the matter of *Shriram Mukundrao Korde v/s State of Maharashtra and others*. Placing reliance upon the judgment of the Apex Court in the case of *Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and another Vs. State of Maharashtra and others*, reported in **2002 (1) Mh.L.J. 659**, this Court has concluded that the Writ Petition cannot be entertained and the Petitioner can avail of a remedy under Section 91 of the Maharashtra Cooperative Societies Act, 1960 in view of Rule 78 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 (for short “Election Rules of 2014”).

5 Similarly, the learned Division Bench of this Court (Coram : R.M. Borde and S.P. Deshmukh, JJ.) have refused to entertain a petition on similar set of facts by their order dated 13.02.2015 passed in **Writ Petition No.1753/2015** in the matter of *Maroti Ganpatrao Shinde vs. State of Maharashtra and others*. The Division Bench observed thus:-

“Since process of election has commenced and today is the date for declaring final list of contesting

candidates, in view judgment of the Supreme Court in the matter of “Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and Another V. State of Maharashtra and Others” reported in (2001) 8 SCC 509, no interference is called for in the present writ petition. In view of this, writ petition stands disposed of keeping open option for the petitioner to raise challenge to the election in accordance with provisions of Maharashtra Co-operative Societies Act.”

6 In the light of the above, this Writ Petition is disposed of without entertaining the challenge posed by the Petitioner on it's merits.

7 Needless to state, the Petitioner will be at liberty to prefer an appropriate proceeding under Section 91 of the Maharashtra Cooperative Societies Act, 1960 r/w Rule 78 of the Election Rules, 2014 at an appropriate stage after the elections. All contentions of the Petitioner are kept open.

(RAVINDRA V. GHUGE, J.)