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

WRIT PETITION NO.2502 OF 2015

Sandeep Shivajirao Bhosale.

..Petitioner

-Versus-

State of Maharashtra and others.

..Respondents

.....

Mr.A.N.Irpatgire, Advocate for the Petitioner.

Mr.V.G.Shelke, AGP, for the Respondents/ State.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 05th March, 2015

Per Court:

1 The Petitioner is aggrieved for the reason that though he has cleared all the dues of the Respondent No.3 Society, the Respondent No.2 has mistakenly held that the Petitioner is a defaulter. As such, his name is not included in the final voters list thereby, depriving his right to vote in the elections which would be held for the Respondent No.3 Society.

2 According to the Petitioner, the provisional voters list was published on 04.02.2015. Though the Petitioner is a member of the Respondent No.3 Society, his name is not shown in the provisional voters list. Therefore, the Petitioner raised objection before the Respondent No.2 on 12.02.2015. However, the Respondent No.2, by the impugned order dated 20.02.2015, has rejected the objection of the Petitioner. The election programme is set in motion.

3 The Division Bench of this Court (Coram: N.H. Patil and A.S. Gadkari, JJ) in **Writ Petition No.1443/2015** (*Mr.Popatrao Punjaji Danghe v/s Kadava Cooperative Sugar Factory*) passed an order dated 10.02.2015 refusing to entertain the said petition. In the said case, the issue as regards wrongful inclusion of about 13,000 voters in comparison to the existing 2000 members was raised. The Division Bench, therefore, passed the following order:-

- “1. The petitioners' grievance is that non-producer members of the respondent Karkhana would be participating in the voting to elect producer member. It is alleged that there are about 2,000 producer members and 13,000 non-producer members of the Karkhana. In view of the amendments brought to the Maharashtra Cooperative Societies Act, 1960 (“said Act” for short) and in view of amended bye-laws, specific constituency of producer members is carved out. The members contesting elections from the said constituency have to be producer members and likewise the members casting votes to be producer members.
2. Learned counsel appearing for the respondent Karkhana submits that in accordance with the amended bye-laws the members, as approved by the concerned authority, of the Karkhana, shall participate in the election process. Learned counsel has referred to the provisions of the amended provisions of section 26 of the said Act.. It is further submitted that the proceedings under section 11 of the said Act will have to be initiated against such members. According to the election programme, final list of the voters is to be published on 11th February 2015. It is informed that elections are being held to constitute managing committee of the respondent

Karkhana. Reliance has been placed on the judgment of the Supreme Court in the case of Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha v. State of Maharashtra, (2001) 8 SCC 509. We have perused the said judgment. We have also perused the order passed by the Reporting Officer dated 6th February 2015 which is impugned herein.

3. *The election process is set in motion. The petitioners have efficacious statutory remedy which they may avail, if they so desire. The issue raised by the petitioners at this stage cannot be gone into in exercise of writ jurisdiction. Without expressing any opinion on merits of the contentions raised, petition is disposed of with liberty.”*

4 Similarly, the learned Division Bench of this Court (Coram : R.M. Borde and S.P. Deshmukh, JJ.) has 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.”*

5 Thus, placing reliance upon the judgment of the Honourable

Supreme Court in the case of *Shri Sant Sadguru Janardan Swami (supra)*, the Division Benches of this Court declined to interfere with the matter.

6 As such, since preparation of the voters list is considered to be an intermediate stage in conducting the elections, I am not inclined to entertain this Writ Petition. Hence, this Writ Petition is disposed of with liberty to the Petitioner to avail of such remedy as is permissible in law inclusive of a remedy under Section 91 of the Maharashtra Cooperative Societies Act, 1960 r/w Rule 78 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014.

7 Needless to state, since this Writ Petition has not been considered on its merits in the light of the view taken by the Division Benches of this Court and the ratio laid down by the Honourable Supreme Court in the case of *Shri Sant Sadguru Janardan Swami (supra)*, all contentions raised by the Petitioner in this Writ Petition are kept open for being considered by an appropriate authority before whom the Petitioner may raise a grievance. In the event, the Petitioner prefers any such proceeding for the redressal of his grievance, the same shall be considered by the concerned Authorities in accordance with law and on its own merits.

(RAVINDRA V. GHUGE, J.)