

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

WRIT PETITION NO. 2676 OF 2015

Prabhu S/o Gangadhar Ghatul ... Petitioner

Versus

The State of Maharashtra
& others ... Respondents

.....
Mr. S.S. Thombre , Advocate for petitioner
Mr. D.R. Korde, A.G.P. for respondents / State
.....

CORAM : RAVINDRA V. GHUGE, J.

DATED : 5th MARCH, 2015

PER COURT :

1. I have heard Shri Thombre, learned Advocate for the petitioner and the learned A.G.P. for quite some time.
2. The programme for finalisation of the voters list with regard to the elections to the respondent No. 4 society, was declared on 02-02-2015. Provisional voters list was published on 02-02-2015. Objections were invited for in between 02-02-2015 and 11-02-2015.
3. The petitioner has raised objections to the provisional voters list on 12-02-2015 which is after the end of the period for raising objections. The said objections have not been considered only

because the petitioner has raised objections after the period for raising them was over.

4. Contention is that the respondent authority should not have accepted the objections raised by the petitioner and should have returned the application, since it was filed after the period for raising objections was over. The fact that the respondent No. 3 received the objections, therefore, creates an obligation on respondent No. 3 to decide the said objections since the date of hearing on objections was posted on 13-02-2015, one day after the petitioner had raised objections.

5. The third respondent has acted high handedly and has intentionally ignored the objections raised by the petitioner.

6. 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."

7. 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.”

8. In the light of the above, I do not intend to entertain this petition. The petition is, therefore, disposed off with liberty to the petitioner to avail of any such remedy as may be available in law, inclusive of the remedy under Section 91 of the Maharashtra Co-operative Societies Act read with Rule 78 of the 2014 Elections Rules.

9. Since this Court has not considered the merits of the petition, all contentions and averments on behalf of the petitioner are kept open for the appropriate authority to consider on their own merits and in accordance with law.

(**RAVINDRA V. GHUGE, J.)**