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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3872 OF 2015

Deepak s/o Keshavrao Sanap
 Age-37 years, Occ - Agriculture
 R/o Panegaon, Taluka-Ambad
 District - Jalna

PETITIONER

VERSUS

1. The State of Maharashtra
 Through District Deputy Registrar
 of Co-operative Societies, Jalna
 Administrative Building,
 2nd Floor, Collector Office,
 Jalna
2. The Returning Officer,
 Panegaon Vividh Karyakari Seva
 Sahakari Sanstha Maryadit,
 Panegaon, Taluka-Ambad
 District – Jalna
3. Panegaon Vividh Karyakari Seva
 Sahakari Sanstha Maryadit,
 Panegaon, Taluka-Ambad
 District – Jalna

RESPONDENTS

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Mr. Ajeet B. Kale, Advocate for the petitioner
 Mr. D. B. Bhange, AGP for respondent State
 Mr. K. J. Suryawanshi, Advocate for respondent No.3

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 30th APRIL, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with

consent of learned advocates for the parties.

2. The petitioner purportedly aggrieved by overruling of his objection, alleging that about 140 persons have been included in the voters list by manipulating record, is before this court. For said purpose he refers to that requisite information was in fact not available with the election officer on 31st March, 2015. He relies on page 62 of the writ petition, which carries an endorsement that required information was not supplied till 5.45 pm. He, therefore, contends that in absence of requisite information, an order overruling his objection is unsustainable. He further submits that the election officer has played fraud with the entire system and this needs to be attended to immediately in order to arrest further deterioration of the situation. He relies on two decisions of division bench of this court reported in 2006 (5) Bom. C. R. 691 "*Dalsing Shamsing Rajput V. State of Maharashtra and Others*" as well as 2012 (2) ALL MR 221 "*Lakhansing Sadhusingh Chandel V. Vinod Manohar Atram & Others*". He therefore, urges for indulgence in the writ petition, since according to him, the petition involves very peculiar facts.

3. On the other hand, learned advocates appearing for the respondents vehemently contested the allegations about

inclusion of 140 persons by manipulation. They rely on certain resolutions and state that inclusion of said 140 persons has been either before 2009 or 2012 that too by following proper procedure. It is further being submitted that allegations are vague and no particulars, as to whose names have been included by manipulation, have not been referred to. It is further being submitted that the petition raises disputed questions of fact and the election has reached its final stage, as only voting is to take place, which is scheduled on 5th May, 2015.

5. Having regard to aforesaid contentions, position clearly emerges that there is dispute about facts and although it is being contended that the action for irregularity in conduct of election is being looked into under the orders of superior authorities of the election officer, the position as stated herein above, about dispute over facts can hardly be said to have been shaken. Since facts will have to be inquired into, I do not think that this is a fit case wherein this court should grant indulgence in the writ petition, especially looking at the stage of the election and having regard to ratio laid down by the Supreme Court in “*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.

6. The petition, as such, is not being entertained and stands dismissed. It is, however, open for the petitioner to take up all such proceedings as are available in law, in respect of grounds taken in this writ petition, including an election petition. It is further being referred to that this order would not be an impediment for the proceedings taken up for the alleged errors committed by the officers. Rule stands discharged. Writ petition stands disposed of.

7. Pending civil application stands disposed of.

[SUNIL P. DESHMUKH, J.]