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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.6942 OF 2015

Kashinath Ramji Gaikwad & Another

PETITIONERS

VERSUS

The State of Maharashtra & others

RESPONDENTS

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Mr. R. T. Nagargoje, Advocate for the petitioners

Mr. V. G. Shelke, AGP for respondent State

Mr. A. V. Deshmukh, Advocate for respondent No.4

Mr. I. S. Thorat, Advocate for intervenor

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 20th JULY, 2015

ORDER :

1. The writ petition purports to challenge inclusion of 102 persons as voters in the final voters' list prepared for elections to the managing committee of Agriculture Produce Market Committee, Chalisgaon.

2. Learned advocate for the petitioners vehemently submits that the petitioners had taken objection to provisional voters' list in respect of said 102 persons referring to that their inclusion is not proper and would be fraudulent, for, most of them are relatives of the present members of the managing committee of Agriculture Produce Market Committee and the inclusion has

been caused pressurizing the employers. Those persons neither reside nor do they carry on business in the area of operation of Agriculture Produce Market Committee, Chalisgaon. He further purports to contend that only receipts have been issued in respect of payment towards licence fees and it may be that no licence has been issued. He refers to communications issued by Agriculture Produce Market Committee to Assistant Registrar, Co-operative Societies, Chalisgaon and from said Registrar to District Deputy Registrar, Co-operative Societies, Jalgaon. He contends that having regard to paragraph No.4 of both the communications, which have been appended at pages 43 and 44 of the petition, it is apparent that said 102 persons cannot be said to carry on business in the area of operation of the Agriculture Produce Market Committee and despite that while deciding the objection, the District Deputy Registrar, Co-operative Societies, ventured to state that he has seen the record, when the communications in this respect make it clear that it is not clear as to whether they have paid requisite fees for carrying on business. In such a case, he submits that the order is defective and is liable to be interfered with.

3. Though learned advocate for the petitioners contends as aforesaid, one cannot lightly brush aside observations about

record being seen by the concerned authority, which refers to that there is no embargo on a person to be a voter, pursuant to concerned rules, if he holds licence for two years and it would not be necessary that the person shall carry on business in the area of operation of the Agriculture Produce Market Committee.

4. Apart from aforesaid, learned advocate appearing for respondent No.4, purports to rely on a list as submitted to the District Deputy Registrar, Co-operative Societies, which according to him shows that the concerned 102 persons had licence for over a period of two years, qualifying them to be voters in the ensuing elections. The list is taken on record and marked "X" for identification purpose. It is the contention of learned advocate for the petitioners that besides the list, there was no other record, which has been placed before the District Deputy Registrar.

5. Having regard to aforesaid, the questions which emerge are basically with regard facts, which at this stage appear to be disputed ones. Learned advocate for the respondents point out that the courts generally are slow when it comes to interference with acceptance of names in a voters' list and as such, they urge not to interfere with, particularly when the facts are disputed.

6. I find considerable substance in submissions advanced on behalf of the respondents. In view of aforesaid, writ petition is not being entertained and is rejected. However, it would be open for the petitioners to agitate the contentions at appropriate stage before proper forum.

7. In view of disposal of writ petition, pending civil application stands disposed of.

[SUNIL P. DESHMUKH, J.]