

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

**WRIT PETITION NO. 8449 OF 2015**

Jalgaon Zilla Jai Durga Mahila Seva  
Sahakari Sanstha Limited at Mehrun  
Tq. and District Jalgaon  
Through its Chairman

...PETITIONER

versus

The State of Maharashtra and others

...RESPONDENTS

WITH

**WRIT PETITION NO. 8450 OF 2015**

Jai Durga Sahakari Grahak Bhandar  
Limited at Mehrun Tq. and District Jalgaon  
Through its Chairman

...PETITIONER

versus

The State of Maharashtra and others

...RESPONDENTS

WITH

**WRIT PETITION NO. 8451 OF 2015**

Jai Durga Mahila Doodh Utpadak Sahakari  
Sanstha Limited at Mehrun Tq.  
and District Jalgaon  
Through its Chairman

...PETITIONER

versus

The State of Maharashtra and others

...RESPONDENTS

WITH

**WRIT PETITION NO. 8452 OF 2015**

Dhanlaxmi Mahila Doodh Utpadak Sahakari  
Sanstha Limited at Mehrun Tq.  
and District Jalgaon  
Through its Chairman

...PETITIONER

versus

The State of Maharashtra and others

...RESPONDENTS

WITH  
**WRIT PETITION NO. 8453 OF 2015**

Ahilyabai Holkar Sahakari Grahak  
Bhandar Limited at Avhane Tq.  
and District Jalgaon  
Through its Chairman ...PETITIONER

versus

The State of Maharashtra and others ...RESPONDENTS

WITH  
**WRIT PETITION NO. 8454 OF 2015**

Jai Durga Sheli Mendhipalan Sahakari  
Sanstha Limited at Mehrun Tq.  
and District Jalgaon  
Through its Chairman ...PETITIONER

versus

The State of Maharashtra and others ...RESPONDENTS

WITH  
**WRIT PETITION NO. 8455 OF 2015**

Sunilbhou Mahajan Swayamrojgar  
Seva Sahkari Sahakari Sanstha Limited at Mehrun Tq.  
and District Jalgaon  
Through its Chairman ...PETITIONER

versus

The State of Maharashtra and others ...RESPONDENTS

.....

Mr. V.D. Hon, Senior Advocate instructed by  
Mr. A.V. Hon, Advocate for Petitioner  
Mr. S.K. Tambe, A.G.P. for respondents No. 1 to 3  
Mr. V.B. Patil, Advocate for respondent No. 4

.....

**CORAM : SUNIL P. DESHMUKH, J.**

**DATED : 16<sup>th</sup> SEPTEMBER, 2015**

**Order :-**

1. After hearing learned counsel for the parties, it emerges that the petitions have been moved against orders dated 25-06-2015 passed by

respondent No. 2 - District Deputy Registrar, Co-operative Societies, Jalgaon, deleting their names from the voters constituency referable to section 13(1) (c) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (hereinafter referred to as "APMC Act" )

***" 13. Constitution of Market Committees.***

*(1) Subject to the provisions of Sub-section (2) every Market Committee consists of the follows[ [-----] members], namely-*

*(a) ....*

*(b) ...*

*(c) one shall be the Chairman of the co-operative society doing business of processing or marketing of agricultural produce in the market area [ having its registered office situated in the same market area]; or in his absence a representative of the co-operative society elected by its managing committee."*

2. Learned senior counsel for petitioners points out that before deletion of their names in the provisional voters list of said constituency their names had figured in said list, however, all of a sudden without giving any notice and without there being objection by any side, their names had been deleted and as such they had moved District Deputy Registrar resulting into impugned order. It is being contended that for being voter, the petitioners possess necessary qualification since they are doing the business of processing and marketing of agricultural produce in the market area, having regard to their registered office in the same market area. This being the position, considerations by which the District Deputy Registrar has carried away himself, were not relevant considerations for classification pursuant to rule 10 of the

Maharashtra Co-operative Societies Rule, 1961( hereinafter referred to as "MCS Rules") is not germane for being voter under section 13(1)(2) of the APMC Act.

3. It is contended that what needs to be considered is whether the society is doing the business of processing or marketing of agricultural produce in the market area or not. Test is doing business of processing and marketing and not classification under rule 10 of the MCS Rules. It is, thus, contended that under erroneous appreciation of facts and the rules, rather, non-appreciation of the voter society doing business of processing and marketing in the same market area, has resulted into impugned order before this court.

4. Learned Assistant Government Pleader, however, submits that the impugned order is proper, for, in the natural course test would be of classification of the co-operative society pursuant to the provisions of the MCS Act and rules thereunder and it may not be necessary for the authority to go into other aspects.

5. Mr. Patil, learned counsel appearing for respondent - APMC leaves it to the court for determination.

6. Learned Senior Counsel in order to buttress his submission relies on the judgment in the case of *Baburao Chanappa Chakote and another Vs. Brihmadeo Krishnat Mane and others* reported in 1980 MH.L.J. 75 particularly paragraphs No. 16 and 17, which are reproduced herein below:-

*"16. Dr. Naik, finally urged that 2<sup>nd</sup> petitioner being consumer society, would not fall within sub-clause (3) of Bye-law 34. There is*

*no merit in this contention, in as much as the 2<sup>nd</sup> petitioner falls within sub-clause(3) as it is an urban society. This contention does not take into account that a consumer society can be urban society, if it mainly operates within urban limits stated earlier.*

*17. To summarise, though an urban society is not defined in section 2 of the Societies Act, the concept of such society is not unknown to the Act. Section 2 of the Act is mere illustrative and not exhaustive and defines various societies in relation to their objects, or the nature of their business or their composition but not in relation to the territorial limits of their operations. An urban society means a society, the business of which falls mainly within the limits of municipal corporation, Municipality, cantonment or notified area committee. The 2<sup>nd</sup> petitioner -society, even though a consumer society as defined by section 2(9), is not less an urban society falling within bye-law 34(3) of the bye-laws of the 4<sup>th</sup> respondent- Bank, as the main area of the operation of the 2<sup>nd</sup> petitioner- society is in Sholapur city. Hence, the election of the first petitioner representing the 2<sup>nd</sup> petitioner – society to the Board of Directors of the 4<sup>th</sup> respondent – Bank was proper and valid.”*

7. From perusal of the provisions as stated hereinabove, it appears that primary requirement for being voter and to be eligible under section 13 (1) (c) of APMC Act is doing business of processing or marketing of agricultural produce in the market area by the co-operative societies. It ostensibly appears that there is no reference to any classification of the society, for, in such a case, Legislature would have made its intention expressly clear referring to the same, particularly rule 10 of the MCS Rules. Even rule 10 of the MCS Rules refers to that classification or sub-classification of societies may not be

in accordance with principal object provided in its bye-laws. This suggests that classification may have its own facility, however, it does not preclude the society so classified from doing any other activity from doing business of processing or marketing. Classification may have its own purpose which may be relevant for consideration by the authorities whenever required. As such, having taken into account to factual position in the matter along with bye-laws, impugned order does not appear to have been passed on said lines. Impugned order does not take into consideration this aspect of the matter. Under the circumstances, I deem it just and proper, taking into account aforesaid provisions its purport, object and legislative intent and factual position including bye-laws, appropriate order needs to be passed by the District Deputy Registrar, by giving proper opportunity to the parties concerned.

8. Various contentions as have been advanced hereinabove are required to be taken into account. It appears that impugned order has been passed without letting opportunity to the petitioners, despite their applications for the same dated 17-06-2015 and without hearing them.

9. Elections from this constituency referable to section 13(1)(c) of the APMC Act are not declared as yet, the District Deputy Registrar may take into account the application afresh filed by the present petitioners before him as expeditiously as possible preferably within a period of two weeks from the date of receipt of writ of this order. For said purpose, impugned orders dated 25-06-2015 passed by respondent No. 2 - District Deputy Registrar, Co-operative Societies,

Jalgaon stand set aside.

10. In order to avoid notice the parties to appear before the District Deputy Registrar, on 23<sup>rd</sup> September, 2015 and abide by onwards schedule as may be fixed by the District Deputy Registrar.

11. With aforesaid directions, writ petitions stand disposed of.

12. Needless to refer to that observations herein before shall not in any case influence the decision on merits. These observations are only to the extent of deciding the present writ petitions.

Sd/-

**( SUNIL P. DESHMUKH, J. )**

MTK