

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.930 OF 2015

Prakash Krishna Pawar & Ors. .. Petitioners

-Versus-

Maharashtra State Coop. Election
Authority and Ors. .. Respondents

Mr.S.S.Patwardhan for petitioners
Mr.S.D.Rayrikar, AGP for State.
Mr.Uday Warunjikar for respondent No.3

CORAM : ANOOP V. MOHTA, J.
DATE : 18th February 2015.

ORAL JUDGEMENT:

1] Rule returnable forthwith. Heard finally by consent of parties.

2] The petitioners have challenged order dated 12th January 2015 passed by respondent No.1 – the Election Authority, whereby the petitioners' objection to include the names of 108 members in the proposed voters list on the basis of earlier by-laws, clause 12, was rejected as the dual membership was not permissible, therefore, there was no question of inclusion of their names in the list of voters.

3] Those objected are members of (first) “Pimpari Vikas Seva

Society” and are also members of “Pimpri No.2 – (Second) Society within the same jurisdiction/ area. Therefore, contended that in the election of first society they cannot be treated as member/ voters. The first society was registered on 28th January 1959 and second society on 14th October 2003.

4] Admittedly, in pursuance to the recent amendments to the Maharashtra Cooperative Societies Act, 1960 (for short the Act), and Rules framed thereunder, the society has adopted a new by-laws on 3rd October 2013. The affairs of the society are now conducted as per these bylaws which state that if any new such type of society is formed in the jurisdiction of the existent society, the existing former members of the society should resign from its membership so that they can become members of the society, if they want to borrow loan from the newly formed society. Therefore, there is no issue now about dual membership being permissible or an automatic cessation of the membership of the respondent No.3 society. This situation needs to be tackled in view of the existing bye-laws at appropriate stage, as these members are not borrowers of second society. They have borrowed the loan from first society only and

are not declared defaulters.

5] The submission that automatic cessation of membership takes place the moment the member is accepted and/or becomes member of other society based upon their existing provisions and the by-law is also unacceptable also for the reason that first society cannot de-list those members automatically. There is nothing on record to show that any such objection was raised earlier for such de-listing. The previous elections took place, based upon the same list of members. The society, therefore, as per the requirement finalised and submitted the list of members inclusive of these members and the concerned authority after hearing petitioners' objections, maintained the list. Therefore, at the instance of the petitioners, there is no case made out for deletion of the names . At an appropriate time, subject to interpretation of those rules, the Authorities may consider such stand. It is, therefore, too late to disturb the list dated 15th January 2015 as well as the valid membership of 2003.

6] The submission is also made that as per the list which is

prepared based upon cut off date i.e. 30th October 2012 the individual members of society should not be eligible to vote in the affairs of the society for a period of two years from the date of their enrollment as a member of such society, as contemplated under the Maharashtra Cooperative Societies Act is not acceptable in view of the above reasons..

7] The voting rights to those members who are admittedly members of the society since 2003 and the society has retained their membership till this date, the respondent authority has just confirmed the said list as contemplated under the Act after hearing objections. I see no case to interfere with the said order of rejecting the objections raised.

8] The submission is also made by the learned Counsel for the respondents that the election programme dated 7th January 2015 has been acted upon and the concerned members have already proceeded further so also the officers. The 66 valid nominations have been accepted.

9.] Therefore, by keeping all points open, for the alternative remedy, if any, the petition is dismissed. Rule is discharged. No costs.

(ANOOP V. MOHTA , J.)