

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3315 OF 2015

**Gagangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

WITH

WRIT PETITION NO.3316 OF 2015

**Gagangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

WITH

WRIT PETITION NO.3317 OF 2015

**Gagangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

WITH

WRIT PETITION NO.3318 OF 2015

**Gagangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

WITH

WRIT PETITION NO.3319 OF 2015

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors.**

: Petitioners.

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

WITH

WRIT PETITION NO.3320 OF 2015

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors.**

: Petitioners.

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

WITH

WRIT PETITION NO.3321 OF 2015

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors.**

: Petitioners.

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

**WITH
WRIT PETITION NO.3322 OF 2015**

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

**WITH
WRIT PETITION NO.3323 OF 2015**

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

**WITH
WRIT PETITION NO.3324 OF 2015**

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

**WITH
WRIT PETITION NO.3325 OF 2015**

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

WITH

WRIT PETITION NO.3326 OF 2015

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors.**

: Petitioners.

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

WITH

WRIT PETITION NO.3327 OF 2015

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors.**

: Petitioners.

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

WITH

WRIT PETITION NO.3328 OF 2015

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors.**

: Petitioners.

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

**WITH
WRIT PETITION NO.3329 OF 2015**

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

**WITH
WRIT PETITION NO.3330 OF 2015**

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

**WITH
WRIT PETITION NO.3331 OF 2015**

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors. : Respondents.**

**WITH
WRIT PETITION NO.3332 OF 2015**

**Gangangiri Vividh Karyakari Sahakari (Vikas)
Seva Sanstha Maryadit and ors. : Petitioners.**

Versus

**The District Co-operative Election Officer
(Kolhapur District Central Co-operative
Bank Ltd) and Divisional Joint Registrar
Co-op. Societies, Kolhapur Division
Kolhapur and ors.**

: Respondents.

**Mr. Y S Jahagirdar, Senior Advocate with Mr. V B Rajure for the Petitioners
in all the Writ Petitions.**

Mr. Shekhar Bhise AGP for the Respondent No.1 in all the Petitions.

Mr. T S Ingale for the Respondent No.2 in all the Petitions.

CORAM : R. M. SAVANT, J.

DATE : 31st March 2015

P.C.

1 The above Writ Petitions take exception to the order dated 23/03/2015 passed by the District Co-operative Election Officer and the Divisional Joint Registrar Co-operative Societies, Kolhapur by which order the Objection Applications being Nos.74 to 91 filed by the Petitioners herein came to be rejected.

2 The Petitioner Nos.1 and 3 herein are the Co-operative Societies and the Petitioner Nos.2 and 4 are the representatives of the Petitioner Nos.1 and 3. The Petitioners have taken objection to the inclusion of the name of the Respondent No.3-Society in each of the above Petitions in the provisional list of voters for elections to the Board of Directors to the Respondent No.2 – The Kolhapur District Central Co-operative Bank Limited (for short KDCC Bank). The Respondent No.3 to each of the above Petitions is a member of the

Respondent No.2-KDCC Bank and has to send its representative for participating in the elections to the Board of Directors of the Respondent No.2-KDCC Bank. The provisional list of voters which has been published as per the 1st phase of the election program comprises of the name of the Respondent No.3 to each of the above Petitions. The Petitioners objected to the names of the Respondent No.3 to each of the above Petitions being included in the provisional list of voters on the ground that the Respondent No.3 was a defaulter as contemplated by Section 73CA(1) of the Maharashtra Co-operative Societies Act (herein after referred to as “the said Act”) and was therefore not entitled to participate in the elections that were to be held to the Board of Directors of the Respondent No.2-KDCC Bank, on a conjoint reading of Section 27(10) and Section 73CA (1) of the said Act. The sum and substance of the objection of the Petitioners was on the touchstone of Section 73CA(1)(f) of the said Act on the ground that the Respondent No.3 in each of the above Petitions was a defaulter in so far as the Respondent No.2-KDCC Bank is concerned and is therefore not entitled for its name being included in the provisional list of voters.

3 The said objection was overruled by the District Co-operative Election Officer on the ground that the Respondent No.3 to each of the above Petition is classified as a “Resource Society” and sub-classified as “Service Resource Society”. The District Co-operative Election Officer also placed

reliance on the Circular dated 14/01/2015 in the matter of conduct of elections to the District Central Co-operative Banks. This is the sum and substance of the order that has been passed overruling the objection of the Petitioners to the inclusion of the names of the Respondent No.3 to each of the above Petitions in the provisional list of voters. As indicated above, it is the said order dated 23/03/2015 which is taken exception to by way of the above Petitions.

4 The principal contention of the learned Senior Counsel Shri Y S Jahagirdar appearing for the Petitioners is that in clause (f) of Section 73CA(1) of the said Act the only exception carved out is in respect of Primary Agricultural Credit Co-operative Society (for short PACCS) and it is only to the said Society i.e. PACCS that the rigors of Section 73CA(1) would not apply and that such Society would be entitled to participate in the elections. As per the guidelines, the said participation would be on the basis that instead of a person on the Board of Directors, a member who is not a defaulter is required to be sent as a delegate. The learned Senior Counsel for the Petitioners would contend that the Respondent No.3 to each of the above Petitions is admittedly not a PACCS but is a Multipurpose Co-operative Society and is therefore not entitled to the exemption as contemplated by clause (f) of Section 73CA(1) of the said Act. The learned Senior Counsel for the Petitioners would contend that the District Co-operative Election Officer by including the name of the

Respondent No.3 in each of the above Petitions in the provisional list of voters and by overruling the objection of the Petitioners has virtually added to the provision a category which is not covered by the said provision.

5 The learned counsel Shri T S Ingale appearing on behalf of the Respondent No.2-KDCC Bank would submit that though the Respondent No.3 in each of the Petitions is Multipurpose Co-operative Society, one of the objects of such a Multipurpose Co-operative Society is to give credit to its members for carrying out agricultural operations. The learned counsel for the Respondent No.2 would contend that as held by the District Co-operative Election Officer, the Respondent No.3 in each of the above Petition is also a Resource Society and sub-classified as Service Resource Society of which one of the species is PACCS. The learned counsel would lastly contend that the 2nd phase of the election program has been notified and is presently available on the website of the State Co-operative Election Officer, and as per the said program, filling up the nomination forms would start on 05/04/2015.

6 Having heard the learned counsel for the parties, I have considered the contentions. As indicated above, the principal objection on behalf of the Petitioners i.e. the Objectors to the inclusion of the name of the Respondent No.3 to each of the above Petitions is on the ground that the Respondent No.3 is a defaulter, and being a Multipurpose Co-operative Society

would not be entitled to the exemption which is available under sub-clause (f) of Section 73CA(1) of the said Act. It is required to be borne in mind that one of the objects of the Society like Respondent No.3-Society in each of the above Petitions is to provide credit to its members for agricultural purposes. It is also required to be noted that there cannot be any dispute about the fact that the Respondent No.3 in each of the above Petitions is a Resource Society and in the Resource Societies there are three categories which are carved out and which can be seen from a reading of Rule 10 of the Maharashtra Co-operative Societies Rules. Amongst the three categories, the first category belongs to Agricultural Credit Societies, the second category is Seeds and Implements and Agricultural Requisites Societies, and the third category covered by clause (c) is Service Co-operative and Multipurpose Co-operative Societies. The Respondent No.3 in each of the above Petition, as indicated above, undisputedly is a Resource Society and sub-classified into Service Resource Society, and therefore belongs to same genus of the Resource Society to which an Agricultural Credit Society belongs. Indeed as indicated above the factum of providing credit to its members for agricultural purpose is not alien to the Societies like the Respondent No.3-Society to each of the above Petitions. The District Co-operative Election Officer is therefore right in coming to a conclusion that by virtue of sub-clause (f) of Section 73CA(1) of the said Act which has been referred to in the guidelines dated 14/01/2015, the right of the Societies like the Respondent No.3-Society in each of the above Petitions is

protected. In my view, to disenfranchise the Respondent No.3 to each of the above Petitions abovenamed, on the ground that though it is a specie of a Resource Society but is not PACCS, would be depriving it and keeping it away from the democratic process of the elections to the Board of Directors of the Respondent No.2-KDCC Bank of which it is a member.

7 Another ground on which I am disinclined to interfere with the order passed by the District Co-operative Election Officer is the fact that the 2nd phase of the election program has been announced which has been preceded by the final voters lists being published. Hence any interference at this stage would amount to interfering with the election process.

8 In that view of the matter no case for interference with the impugned order is therefore made out. The above Writ Petitions are accordingly dismissed. Needless to state that after the elections are over, if the occasion so arises and the Petitioners challenge the elections on the ground of inclusion of the names of the Respondent No.3 in each of the above Petitions, the said proceedings would be tried on their own merits and in accordance with law.

[R.M.SAVANT, J]