

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3673 OF 2015**

Yashpal Singh & Ors.

..Petitioners

Vs.

The State of Maharashtra & Ors.

..Respondents

**Mr. A.G. Damle Senior Advocate i/b Mr. Rupesh Lanjekar for the
Petitioners**

Mr. M. S. Karnik for the Respondent No.3

Mrs. Vaishali Nimbalkar AGP for the Respondent Nos.1, 2 & 4

CORAM : R. M. SAVANT, J.

DATE : 10th APRIL, 2015

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 6-4-2015, passed by the District Co-operative Election Officer, by which order, the objection raised by the Petitioners to the non inclusion of their names in the provisional voters list for elections to be held to the Board of Directors of the Respondent No.3 Bank, was rejected.

2 It is an undisputed position that the Petitioners have become the members of the Respondent No.3 Bank on 21-3-2013 (Yashpal Singh) and 30-3-2013 (i.e. the other Petitioners). The term of the Board of Directors of the Respondent No.3 Bank came to an end in February 2014. It seems that in view of the amendments which were proposed to the Maharashtra Co-operative Societies Act and Rules in the light of 97th Constitutional amendment, the

elections to the Board of Directors of the Respondent No.3 Bank, were not held. The Deputy Registrar Co-operative Societies, vide his letter dated 16-9-2014, directed the Respondent No.3 Bank to prepare the provisional voters list and the cut off date fixed was 31-10-2014. The Petitioners having not completed 2 years as on 31-10-2014 were not included in the provisional voters list. This was taken exception to by the Petitioners before the District Co-operative Election Officer who as indicated above by the impugned order dated 6-4-2015 has rejected the said objection.

3 It is sought to be contended by the Learned Senior Counsel appearing for the Petitioners that in terms of Section 27(3A), the Petitioners having completed 2 years in the year 2015 when the list is to be finalised, the Petitioners ought to have been included in the provisional list of voters. The Learned Senior Counsel would contend that the eligibility of the Petitioners could not be determined on the basis of the said cut off date i.e. 31-10-2014, but has to be determined on the basis of the date when the list is to be finalised. In support of the said contention, the Learned Senior Counsel sought to place reliance on the Judgment of Learned Single Judge of this Court in the matter of **Surekha Sanjay Kharade & Ors. Vs. District Deputy Registrar & Ors.**¹ in which judgment according to the Learned Senior Counsel the facts similar as in the instant case, the names of the Petitioners therein were directed to be included in the provisional list of voters.

1 2012(1) Mh.L.J. 943

4 In my view, it is not possible to accept the contentions urged on behalf of the Petitioners by the Learned Senior Counsel. No doubt Section 27(3A) postulates that a Member who has two years standing is entitled to vote in the elections. However, by Rule (6) and proviso to sub Rule (2) thereof, the State Co-operative Election Authority is within its right to fix a cut off date for inclusion of the names in the voters list. It seems that the said State Co-operative Election Authority has taken a decision in respect of the societies wherein the elections to the Managing Committee or the Board of Directors was due prior to 31-10-2014 to fix the cut off date as 31-10-2014. It is on the basis of the said decision of the said State Co-operative Election Authority that the District Registrar addressed a communication dated 16-9-2014 directing the Respondent No.3 Bank to prepare the provisional list of voters on the basis of the cut off date i.e. 31-10-2014. The Learned Senior Counsel does not question the power of the said State Co-operative Election Authority to fix the cut off date, but states that since the period of two years would be completed by the Petitioners on the date when the provisional list of voters is finalised, the Petitioners are entitled to be included in the final list of voters. As indicated above, the said submission cannot be accepted in the light of the fact that the membership has to be determined as on the said cut off date i.e. 31-10-2014.

5 In so far as the Judge of the Learned Single Judge in the matter of Surekha Kharade (supra) is concerned, the facts in the said case differ from the facts of the present case. In the said case, the names of the members were not included on the ground that they had not completed two years period when the term of the Managing Committee had got over. However the said members having completed the two year period when the steps for holding elections were notified, the Learned Single Judge in the said facts deemed it appropriate to allow the Petition and direct the inclusion of the names of the Petitioners. In the instant case, even if the letter dated 16-9-2014 is taken as the date when the process to hold elections to the Respondent No.3 is triggered of, or even if the cut off date i.e. 31-10-2014 is taken which is a date later than the date of the direction i.e. 16-9-2014. The Petitioners fail to fulfill the qualifying requirement that is being members for two years on the said date. The Petitioners have not completed two years period on the date when the provisional list of voters was published i.e. 20-3-2015.

6 In that view of the matter, the order passed by the District Co-operative Election Authority rejecting the applications filed by the Petitioners cannot be faulted with. No case for interference is therefore made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]