

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

WRIT PETITION NO.4797 OF 2015

Mr. Suresh Sayajirao Daware and another .. Petitioners

Versus

**Mahapalika Kshetra Madayamik Shikshak
Sahakari Pathsanstha Ltd. and others .. Respondents**

Mr. V. P. Sawant i/by Mr. A. S. Desai, for the Petitioners.

Mr. S. D. Rayrikar, AGP for the Respondent Nos.2 & 6.

Mr. Prashant Aher, for the Respondent No.4.

**CORAM : R.M. SAVANT, J.
DATE : 08th JUNE, 2015**

PC.

1. The order dated 28.04.2015 passed by the District Deputy Registrar, Co-operative Societies, Mumbai-(I), directing the competent authority to delete the names of the retired teachers as also defaulters from the provisional voters list is taken exception to by way of the above Petition.

2. The Petitioners claim to be teachers who were working in the secondary schools conducted by the Municipal Corporation of Greater Mumbai. The co-operative society in question is one established by the

said teachers. Amongst the activities carried out by the said society is of extending loans to its members who are teachers. It appears that pursuant to the 97th amendment to the Constitution of India, the Registrar had issued directions to the Co-operative Societies to amend their bye laws so as to bring them in sync with the provisions of the Maharashtra Co-operative Societies Act which also came to be amended pursuant to the said constitutional amendment. The society in question in the present matter i.e. the Respondent No.1 also amended its bye laws and seems that as per the new set of bye laws the retired teachers were excluded from participation in the electoral process for electing the managing committee of the society. In so far as the defaulters members are concerned, there are specific provisions in the Maharashtra Co-operative Societies Act i.e. Section 73CA governing the defaulter members. It is in the said context that the District Deputy Registrar issued the directions as contained in his letter dated 28.04.2015 addressed to the competent authority.

3. The Learned Counsel appearing on behalf of the Petitioners would contend that in terms of the bye laws which were prevalent, the Petitioners would be entitled to participate in the electoral process. The Learned Counsel also sought to draw this Court's attention to the finding recorded in a Election Petition which was filed against the Petitioners when they had contested the elections for the managing committee for the

earlier term in which Election Petition a finding has been recorded that they were the members of the society. The Learned Counsel would also contend that the said letter dated 28.04.2015 has been addressed to the District Deputy Registrar without hearing the Petitioners. In my view, it is not possible to accept the said contentions urged on behalf of the Petitioners by their Learned Counsel. Firstly, it is required to be noted that the election programme is at the fag end, where what remains is only voting which is to take place on 16.06.2015. Secondly, an inquiry into the contentions raised on behalf of the Petitioners would entail an inquiry into facts which is not possible for this Court to undertake in its Writ Jurisdiction under Article 227 of the Constitution of India.

4. Prima-facie also this Court does not find that the removal of the names of the Petitioner can be faulted with as the bye law in question which is part of the new set of bye laws which have now been framed indicates that the retired teachers are to be excluded from participation in the electoral process to elect the managing committee and that they would only be nominal members. In my view therefore, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed. However, it would be open for the Petitioners to file appropriate proceeding after the elections are over if the occasion so arises and the fact that the instant Petition has been dismissed would not come

in the way of the Petitioners from prosecuting the said proceeding which would undoubtedly be decided on its own merits and in accordance with law.

[R.M. SAVANT, J]