

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6399 OF 2016

The Vividh Karyakarti Seva Sahakari
Sanstha through its Chairman,
Gangadhar Pandharinath Peddawad
and Ors.

... Petitioners

Vs.

The State of Maharashtra and Ors.

... Respondents

Mr. Amey N. Sabnis, h/f. Mr. V.D. Gunale, Advocate for the
petitioners.

Mr. S.K. Tambe, AGP for the respondent nos. 1 to 3.

Mr. M.S. Deshmukh, h/f. U.L. Momale, Advocate for the respondent
no.5.

CORAM : SUNIL P. DESHMUKH, J.
DATE : 20-06-2016.

Per Court :

1. Heard learned counsel for the parties.

2. The petitioners are before this court aggrieved by the order of Returning Officer dated 10-06-2016, whereunder objections taken by petitioners no. 1 and 2, to the publication of provisional voters' list contending that the voters' list submitted by the secretary on 23-05-2016 in the elections to Managing Committee of Multipurpose Co-operative Society, Nalgir was not an authentic list of voters.

3. According to the petitioners, as a matter of fact, list as is appended to this writ petition at exhibit-B is a list which ought to have been taken into consideration as the provisional voters list, referring to that the same had been signed by the chairman and the secretary of the society.

4. The returning officer had published the list dated 23-05-2016 as a provisional voters' list to which the petitioners no. 1, 2 and 3 purportedly had taken objection. The secretary had disowned the submission of aforesaid subsequent list. The returning officer under his order has taken stock of aforesaid situation and the contentions on either side and had observed that, while the petitioners had objected to the publication of provisional voters list submitted by the secretary they had also approached the Assistant Registrar Co-operative Society, Udgir in respect of the same and had tried to stall the proceedings in this respect, however, said attempt did not bear any fruit. It has been observed that the returning officer himself has collated the list with the schedule-I register and has further observed that there is no list in his office which has been submitted along with the objections.

5. Learned counsel for the petitioners submits that, as a matter of fact, even schedule-I register which has been examined by the returning officer cannot be said to be an authentic register.

The petitioners were not aware of decision dated 10-06-2016 which had been received at their end only on 15-06-2016 and before that they had submitted certain documents along with written submissions, if those are taken into account, the situation will be clear that the final list of voters pursuant to the election program cannot be said to an appropriate list in accordance with rules.

6. He submits that in the process about 796 persons are being kept away from their sacred right of voting. He therefore submits that while the investigations may go on, the situation can be salvaged by letting 796 persons vote and keeping their votes in separate ballot box.

7. Learned counsel Mr. Deshmukh appearing for respondent no.5, however, submits that there are lot of disputed questions and having regard to the scope of inquiry which has been envisaged under the relevant elections rules, the disputed aspects would be beyond the authority of returning officer. He further submits that the returning officer has categorically observed that he has compared the list submitted by the secretary with the schedule-I register and has satisfied himself and further that no list had been appended to the objections. The correctness or otherwise would not be amenable for further investigations at the stage at which the matter was considered by the election officer.

8. He, therefore, further submits that no indulgence be given to the petitioners. Disputed questions can be taken care of under proper remedy and measures at proper stage.

9. Having heard the parties and particularly having regard to that the elections have reached to such a stage, intervention in the election process may not sub-serve the cause of justice and the same does not appear to be called for in view of the disputed questions of facts. It would be appropriate if the petitioners choose a proper remedy at a proper stage if they are aggrieved by the non-inclusion of petitioners no. 3 and 4 and other persons, if they so authorise.

10. The writ petition therefore is not being entertained and is rejected. It is open for the petitioners to take such remedial recourses as are possible in the facts and circumstances of the case and as are available in law, including an election petition.

(SUNIL P. DESHMUKH)
JUDGE