

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6930 OF 2016

Vijay Govindrao Ukkadgaonkar
and others

...PETITIONERS

versus

State Co-operative Election Authority
Maharashtra State, Pune
Through its Secretary and others

...RESPONDENTS

.....
Mr. S.S. Gangakhedkar, Advocate for petitioners
Mr. S.K. Kadam, Advocate for respondent No. 1
Smt. S.S. Raut, AGP for respondents No. 2, 3 and 4
Mr. Deelip Patil, Bankar, Advocate holding for
Mr. Faruk V. Patel, Advocate for respondent No. 5

.....

WITH

**CIVIL APPLICATION NO. 9813 OF 2016
IN
WRIT PETITION NO. 6930 OF 2016**

Sudam Gangadhar Gaikwad

...APPLICANT

versus

State Co-operative Election Authority
Maharashtra State, Pune
Through its Secretary and others

...RESPONDENTS

.....
Mr. S.B. Talekar Advocate for applicant
Mr. S.K. Kadam, Advocate for respondent No. 1
Smt. S.S. Raut, AGP for respondents No. 2, 3 and 4
Mr. Deelip Patil, Bankar, Advocate holding for
Mr. Faruk V. Patel, Advocate for respondent No. 5
Mr. S.S. Gangakhedkar, Advocate for respondent Nos. 6 to 12

.....

WITH

WRIT PETITION NO. 7436 OF 2016

Smt. Suman Vasantryao Kandharkar ...PETITIONER

versus

State Co-operative Election Authority
Maharashtra State, Pune
Through its Secretary and others

...RESPONDENTS

.....

Smt. Komal Kandharkar, Advocate for petitioner
Mr. S.K. Kadam, Advocate for respondent No. 1 & 5
Mrs.A.V. Gondhalekar, AGP for respondents No. 2 and 3
Mr. Deelip Patil, Bankar, Advocate holding for
Mr. Faruk V. Patel, Advocate for respondent No. 4

.....

WITH

**CIVIL APPLICATION STAMP NO. 21388 OF 2016
IN
WRIT PETITION NO. 7436 OF 2016**

Sudam Gangadhar Gaikwad ...APPLICANT

versus

State Co-operative Election Authority
Maharashtra State, Pune
Through its Secretary and others

...RESPONDENTS

.....

Mr. S.B. Talekar Advocate for applicant
Mr. S.K. Kadam, Advocate for respondent No. 1 & 5
Mrs.A.V. Gondhalekar, AGP for respondents No. 2 and 3
Mr. Deelip Patil, Bankar, Advocate holding for
Mr. Faruk V. Patel, Advocate for respondent No. 4
Mr. Komal Kandharkar, Advocate for respondent No. 6

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**CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.**

DATED : 13th JULY, 2016.

Order :-

1. Petitioners assail final voters list i.e. exclusion of their names from the final voters list. According to learned counsel for petitioners, names of the petitioners were appearing in the provisional voters list, however, in the final voters list their names have been deleted. The same is illegal. The Administrator does not have power to decide about membership. According to learned counsel, though elections are to be held tomorrow i.e. on 14-07-2016, considering illegality committed by the authority concerned, this Court can certainly interfere even in the midst of the election process.

2. To support their submissions, learned counsel for petitioners relies on the judgment of Apex Court in the case of *Pundlik Vs. State of Maharashtra* reported in (2005)7 Supreme Court Cases, 181 so also another judgment of the Apex Court in the case of *Ahmednagar Zilla S.D.V.& P. Sangh Ltd. and another Vs. State of Maharashtra and others* reported in (2004)1 Supreme Court Cases 133.

3. Mr. Bankar, learned counsel for respondent - administrator representing the society, Mr. Kadam, learned counsel for

respondent - Election Officer submit that proper procedure has been followed. Provisional voters list was notified. The decision making process has been followed and final voters list has been prepared. Learned counsel for respondents further submit that even otherwise petitioners have alternate remedy to assail the same by way of election petition.

4. Mr. Talekar, learned counsel for respondent - intervenor submits that in view of Rule 78 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 petitioners have remedy to assail the election by way of election petition. Names of 37 persons, which were appearing in the provisional voters list have been excluded at the time of preparing final voters list. Moreover, in respect of same election and voters list learned Single Judge of this Court in writ petition No. 6878 of 2016 has relegated the petitioners to alternate remedy. Learned Single Judge of this Court vide order dated 13th July, 2016 had dismissed the writ petition on the ground that petitioners have alternate remedy to challenge the election by way of election petition in view of *Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and another Vs. State of Maharashtra and others* reported in *AIR 2001 Supreme Court 3982*.

5. There cannot be a dispute that even after commencement of elections process, in exceptional case, Court can entertain the

petition however, considering the proximity i.e. voting is scheduled tomorrow i.e. on 14-07-2016 itself, it would not be possible to consider the contentions of respective parties and adjudicate upon the same.

6. Considering the fact that as elections are scheduled tomorrow i.e. on 14-07-2016, we are not inclined to consider the petition on merits. Accordingly, we dispose of the writ petition with liberty to the petitioners to avail of such alternate remedies as would be possible in respect of their grievances against the impugned order including an election petition.

7. We have not considered the contentions of either parties on merits of the matter, they are kept upon.

8. In view of disposal of writ petitions, pending civil applications for intervention stand disposed of.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

MTK