

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8591 OF 2016

Suraj S/o Bhaskar More

Petitioner

Versus

The State of Maharashtra and others

Respondents

Mr. Ajinkya Reddy advocate for the petitioner
Mr.A.B. Girase, Govt. Pleader for Respondent No.1
Mr. S.K. Kadam advocate for respondent Nos.2 to 4
Mr. A.N. Irpatgire advocate for respondent No.5
Mr. N.P. Patil advocate for interveners

CORAM : R.M. BORDE &
K.K. SONAWANE, JJ

(Date : 29th August, 2016.)

PER COURT :-

1 This petition can be disposed of in terms of the directions as have been issued while disposing of Writ Petition No. 8191 of 2016 on 19.8.2016.

2 It is the contention of the petitioners that, they are the members of the society. However, their names have been deleted on account of their failure to deposit the differential value of the shares.

3 Learned counsel appearing for the interveners vehemently

opposes the prayer and contends that, in fact 132 petitioners are not the members of the society and their names have been included on the basis of manipulated record. They, in fact, did not fulfill the requisite conditions for their enrollment as the members.

4 The controversy raised being a disputed question of facts, need not be gone into by this Court, while dealing with writ, under article 226 of the Constitution of India. So far as the provisions of section 26(1) of the Maharashtra Cooperative Societies Act are concerned, it lays down that, in case of increase in minimum contribution of member in share capital, to exercise right of membership, the society shall give a due notice of demand to the members and give reasonable period to comply with. According to the petitioners, in the instant petition, the society has not issued any notice of demand and no reasonable opportunity was given to them to comply with the directions and as such, the petitioners are entitled to enroll as Member and shall be permitted to exercise right to vote.

5 Considering the factual controversy involved and considering the fact that, in view of directions issued in Writ Petition No.8191/2016, the Assistant Registrar, Cooperative Societies is already holding an enquiry in respect of inclusion of

names of members in the voters list, as regards the entry of the name of the petitioners, therein, the instant enquiry also can be conveniently directed to be made by the Assistant Registrar, Cooperative Societies, Latur.

6 The Assistant Registrar, Cooperative Societies, Latur shall scrutinize the record and ascertain as to whether 132 petitioners in the instant petition are the members of the society and as to whether benefit under section 27(1) of the Act can be granted to them and pass appropriate orders. If the petitioners are found to be the members of the society and have been debarred merely on account of their failure to deposit the differential share amount, they shall be included in the list of voters and shall be permitted to cast votes.

7 With the directions as above, the writ petition is disposed of.

8 Parties to act upon the authenticate copy of the order.

(K.K. SONAWANE, J)

(R.M.BORDE, J)