

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

WRIT PETITION NO. 8616 OF 2016

- 1 Navnath Tukaram Jadhav
- 2 Balasaheb Navnath Jadhav
- 3 Sanjay Navnath Jadhav
- 4 Uttereshwar Navnath Jadhav
- 5 Shriram Baburao Katare
- 6 Madhukar Baburao Katare
- 7 Laxmibai Baburao Katare
- 8 Savita Madhukar Katare
- 9 Seema Shriram Katare
- 10 Surekha Hanumant Katare
- 11 Pundalik Namdeo Katare
- 12 Laxman Kundalik Katere
- 13 Pandurang Namdeo Katare
- 14 Barik Santuba Kakde
- 15 Chhayabai Barik Kakde
- 16 Shiram Kisan Katare
- 17 Somnath Shivram Katare
- 18 Sangeeta Shivram Katare
- 19 Bansi Bapu Kakde
- 20 Chandrakala Bansi Kakde
- 21 Nagnath Rakhmaji Kakde
- 22 Jagganath Rakhmaji Kakde
- 23 Panchphula Nagnath Kakde

- 24 Meharabai Jagannath Kakde
- 25 Raibai Kisanrao Katare
- 26 Subhash Bhavani Kakde
- 27 Kantabai Subhash Kakde
- 28 Machindra Digambar Kakde
- 29 Kaverabai Digambar Kakde
- 30 Digambar Kondiram Kakde
- 31 Mohargbai Machindra Kakde
- 32 Laxman Tukaram Kakde
- 33 Kalindabai Laxman Kakde
- 34 Ashruba Motiram Kakde
- 35 Mahadeo Motiram Kakde
- 36 Pratibha Mahadeo Kakde
- 37 Balaji Jagannath Kakde
- 38 Ashruba Kondiram Kakde
- 39 Balaji Ashruba Kakde
- 40 Ganesh Ashruba Kakde
- 41 Mangal Balaji Kakde
- 42 Shindubai Mahadeo Katare
- 43 Sidheshwar Mahadeo Katare
- 44 Sadashiv Digambar Kakde
- 45 Dashrath Dhondiba Katare
- 46 Ganesh Dashrath Katare
- 47 Avedhya Dashrath Katare

- 48 Vijaymala GAnesh Katare
- 49 Baburao Dhondiba Katare
- 50 Udhav Kisan Kadam
- 51 Shivaji Kisan Kadam
- 52 Kisan Baliram Kadam
- 53 Abasaheb Sudam Kadam
- 54 Sudam Vithoba Kadam
- 55 Nehal Khairat Kazi
- 56 Ajeet Vinayak Khandekar
- 57 Rahul Vinayak Khandekar
- 58 Swarnmala Vinayak Khandekar
- 59 Vaijinath Deorao Phutane
- 60 Subadrabai Vaijinath Phutane
- 61 Machhindra Vaijinath Phutane
- 62 Balasaheb Vaijinath Phutane
- 63 Ranjana Pradeep Mohite
- 64 Rameshwar Tatyarao Mule
- 65 Sumanbai Tatyarao Mule
- 66 Ishwar Narhari Solunke
- 67 Parmeshwar Narhari Solunke
- 68 Dnyaneshwar Parmeshwar Solunke
- 69 Prakash Narhari Solunke
- 70 Tukaram Parmeshwar Solunke
- 71 Mahatma Kisan Solunke
- 72 Anita Mahatma Solunke

- 73 Chandrakala Ishwar Solunke
- 74 Ashabai Parmeshwar Solunke
- 75 Gangabai Prakash Solunke
- 76 Ashruba Apparao Solunke
- 77 Sudam Dadarao Solunke
- 78 Prakash Kekrba Naiknavare
- 79 Sunita Babasaheb Naiknavare
- 80 Suresh Sambhaji Naiknavare
- 81 Gorak Prakash Naiknavare
- 82 Kavita Suresh Naiknavare
- 83 Alka Prakash Naiknavare
- 84 Ashrubai Sudam Naiknavare
- 85 Sudam Vithal Naiknavare
- 86 Keraba Sakhahari Naiknavare
- 87 Ashwini Somnath Naiknavare
- 88 Hanumant Bappasaheb Naiknavare
- 89 Somnath Prakash Naiknavare
- 90 Bhaskar Ashruba Naiknavare
- 91 Govind Bhaskar Naiknavare
- 92 Ganapu Baburao Naiknavare
- 93 Sagunabai Ganpu Naiknavare
- 94 Atmaram Ganpu Naiknavare
- 95 Jaishree Atmaram Naiknavare
- 96 Shivaji Ganpu Naiknavare

97 Babasaheb Sambhaji Naiknavare

All age major, occ. Agril.,
All r/o Tarnali, Tq. Kaij, Dist. Beed.

.. PETITIONERS

VERSUS

- 1 The State Co-operative Election Authority
Maharashtra State, Pune
- 2 The District Deputy Registrar
Co-operative Societies, Beed
- 3 The Returning Officer for Elections to
V.K.S.S. Society Ltd. Tarnali,
Tq. Kaij, Dist. Beed
- 4 The Vividha Karyakari Seva Sahakari
Society Ltd. Tarnali, Tq. Kaij
Dist. Beed
Through its Secretary
- 5 Chandrakant Rangnath Mane
age major, occ. agril
r/o Tarnali, Tq. Kaij
Dist. Beed.

.. RESPONDENTS

Mr. T.G. Gaikwad, advocate for petitioners.
Mr. S.S. Dande, AGP for the State.
Mr. S.K. Kadam, advocate for respondent no. 3.
Mr. V.H. Solanke, advocate for respondent no. 4.
Mr. B.B. Bise, advocate for respondent no. 5.

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**CORAM : R.M. BORDE &
K. L. WADANE, JJ.
DATE : 10th AUGUST, 2016.**

ORAL JUDGMENT : (PER R. M. BORDE, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally with the consent of the learned counsel for the respective parties.

3. Petitioners are objecting to the order passed by the Returning Officer directing deletion of their names from voters list prepared for the purpose of holding elections to Vividha karyakari Seva Sahakari Society Ltd., Tarnali,Tq. Kaij, Dist. Beed.

4. Program for finalisation of voters list as well as for electing the Managing Committee of the society was published by the Returning Officer under the directions of State Election Authority on 07.07.2016. The date prescribed for publication of voters list as per the program was 11.07.2016 whereas objections were permitted to be raised between 11.07.2016 to 15.07.2016. As per the program of election, decision on objections was required to be taken on 16.07.2016. The program prescribes, in observance of the various stages of election, that voting shall take place on 14.08.2016. Petitioners contend that respondent no.5 raised objection in respect of entitlement of petitioners to continue as members of the society in view of their failure to deposit the increased share amount within stipulated period. It is contended that initial share value of Rs. 10/- has been increased and the members are obliged to deposit the additional value of the share. It is contended that petitioners did not deposit additional share value and as such, are not entitled to participate in the process of election. The objection raised by respondent no. 5 was considered favourably and the Election Officer directed deletion of their names. It is the contention of petitioners that firstly they have deposited the additional share value with the District Central Co-operative Bank in the account of the society and secondly, there

was no demand made by the society for deposit of additional share value and as such, petitioners did not incur any disability.

5. Learned counsel for respondent no. 4 – society, states on instructions that notice of demand in respect of increased share amount was not made. Apart from this, before taking adverse decision, the Returning Officer did not extend an opportunity of hearing to petitioner and as such, the decision rendered by the Returning Officer is liable to be quashed and set aside. Section 26 of the Maharashtra Co-operative Societies Act, 1960, provides that a member shall be entitled to exercise such rights as provided in the Act, rules and regulations. Proviso to sub-section 1 to section 26 provides that no member shall exercise the rights, until he has made such payment to the society in respect of membership, or acquired such interest in the society, as may be prescribed and specified under the by-laws of the society, from time to time. Second proviso to sub-section 1 to section 26 provides 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. In the instant matter, admittedly, the society has not issued notice of demand to petitioners and as such, petitioners cannot be denied right to participate in the process of election.

6. For the reasons recorded above, writ petition deserves to be allowed and the same is accordingly allowed. Decision rendered by the Returning Officer directing deletion of names of petitioners from the voters list is

quashed and set aside. Petitioners shall be entitled to participate in the process of election to the extent of casting vote in the election on the prescribed date. Rule is accordingly made absolute. In the facts and circumstances of the case, there shall be no order as to costs.

(K. L. WADANE)
JUDGE

(R. M. BORDE)
JUDGE

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