

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

WRIT PETITION NO.497 OF 2016

Shri Kedarling V.K.S. (Vikas) Seva Sanstha
Mendholi, having its office at
Village Mendholi, Post. Hiattivade,
Taluka Azar, District Kolhapur

.. Petitioner

V e r s u s

- 1 Asst. Registrar for Co-op Societies
Tal. Ajara, District Kolhapur
- 2 Returning Officer – Shri Kedarling
V.K.S. (Vikas) Seva Sanstha,
Mendholi, Post Hattivade,
Taluka Ajara
District Kolhapur
- 3 Mr. Laxman Dhondiba Gudulakar
- 4 Mr. Chandrakant Dattatray Nandavadekar
- 5 Mr. Ananda Govind Patil
- 6 Mr. Ananda Parasu Ghevade
- 7 Mr. Ananda Subhana Lad
- 8 Mr. Mahadev Laxman Kolekar
- 9 Mr. Tanaji Dattu Nandavadekar
- 10 Mr. Ananda Chandrakant Kambale
- 11 Mr. Dattatray Laxman Joshilakar
12. Mr. Hanamant Appa Lad
13. Mr. Ashok Balu Ghevade
14. Mr. Sambhaji Parasu Lad
15. Mr. Sambhaji Yallapa Bolake
16. Mr. Vilas Krushna Kokitakar
17. Mr. Rajaram Parasu Lad
18. Mr. Mahadev Yallapa Bolake
19. Mr. Janardan Jotiba Chogule
20. Mr. Subhana Gangaji Nanadavadekar
21. Mr. Balu @ Tatoba Subhana Patil
22. Mr. Sambhaji Vithoba Kokitakar
23. Mr. Tukaram Motiram Lad
24. Mrs. Shantabai Chandru Kambale
25. Mr. Arjun Santoba Kokitakar
26. Mr. Shivaji Yallapa Bolake

27. Mr. Pandurang Appa Chogule
 28. Mr. Bhairu Siddhu Gudulakar
 29. Mrs. Sakhubai Vasant Mungoorakar
 30. Mr. Ramachandra Appa Kambale
 31. Mr. Nivrutti Santosh Kokitakar
 32. Mr. Namadev Santoshi Kokitakar
 33. Mr. Maruti Yallapa Bolake
 34. Mr. Indutai Ananda Shintre
 35. Mr. Tukaram Appa Kavale
 36. Mr. Hanamant Parasu Lad
- Respondent Nos. 3 to 36
Residing at Mendholi
Post Hattivade, Taluka Ajara
District Kolhapur. .. Respondents

Mr. P.D. Dalvi i/b Mr. Abhijeet B. Desai for the Petitioner.
Mr. S.D. Rayrikar, AGP for Respondent No.2.
Mr. Ghogare for Respondent No.3.

CORAM : M.S. SONAK, J.
DATE : 19 JANUARY, 2016

P.C. :

1 The challenge of this petition is to the inclusion of the names of Respondent Nos. 3 to 36 for the ensuing election of the petitioner-society, the polling of which, is scheduled on 24 January 2016.

2 Mr. Dalvi, the learned Counsel for the petitioner has submitted that Respondent Nos. 3 to 36, cannot be permitted to go beyond the order dated 6 May 2015 made by the Divisional Joint Registrar, Kolhapur in Revision Application No.109 of 2014. In terms of the said decision, the

said Respondents can be said to have applied for the membership on 30 June 2013 and considering the provisions contained in Section 23 (1A) of the Maharashtra Co-operative Societies Act, 1960, Respondent Nos. 3 to 36 can at the highest claim to have been enrolled as members of the petitioner-society on 30 September 2013. Mr. Dalvi, the learned Counsel, then placed reliance upon the provisions contained in Section 27(3A) of the said Act and submitted that an individual member of a society shall not be eligible for voting in the affairs of that society for a period of two years from the date of his enrollment as a member of such society. Mr. Dalvi, the learned Counsel also made reference to Rule 9 of the Maharashtra Co-operative Societies (Election to Committee) Rules 2014, which deals with preparation of provisional Voters' List for society having interalia individual as member. Mr. Dalvi, the learned Counsel pointed out that even in terms of Rule 9 of the said Rules, only the active members who have completed minimum two years as members from the date of their enrolment and in case of society being a active member who has completed minimum three years from the date of enrolment on or before the date of expiry of period of existing managing committee; shall be included in the provisional list as laid down in section of 27. Mr. Dalvi submitted that term of existing Managing Committee has been expired on 14 August 2015, therefore, he submitted that as on the said date,

Respondent Nos. 3 to 36 have not completed two years from the date of their enrolment, therefore, there is no question of inclusion of their names in the Voters' List.

3 At the outset, it must be noted that an election process is at an advanced stage and, therefore, there is no warrant to exercise the extra ordinary jurisdiction and interfere with the election process. That apart, this is the case, where Respondent Nos. 3 to 36 were denied membership by the society, which, it appears, had gone to the extent of even not accepting the membership forms submitted by the said Respondent Nos. 3 to 36. Respondent Nos. 3 to 36, therefore, had to approach the Authority under the Act and take shelter of provisions of Section 23(1A) of the said Act and secure deemed membership.

4 Even if we accept the interpretation suggested by Mr. Dalvi, the learned Counsel, upon the order dated 6 May 2015, made by the Divisional Joint Registrar, Kolhapur as correct, there can be no dispute that Respondent Nos. 3 to 36 became deemed members as on 30 September 2013. The substantive provision contained in Section 27(3A) of the said Act provide that an individual member of a

society shall not be eligible for voting in the affairs of that society for a period of two years from the date of his enrollment as a member of such society. Respondent Nos.3 to 36 complete two years period, even on the basis of contention of Mr. Dalvi, on or about 30 September 2015. If Election Programme at page-17 of the paper book is perused, first entry relates to publication of the election programme and publication of provisional list of voters. The date indicated as against such entry is 9 December 2015. Thus, the provisional voters list is to be prepared and published by 9 December 2015. Therefore, the provisions contained in Section 27(3A) of the said Act would constitute no bar to the inclusion of names of Respondent Nos.3 to 36 given in the provisional voters list. The objection based upon bar contained in Section 27(3A) of the said Act, therefore, cannot be accepted. The decision of the statutory Authorities to reject the said objection is neither erroneous nor in excess of the jurisdiction vested in them.

5 Rule 9, to which, reference has been made by Mr. Dalvi, relates to the preparation of provisional list of voters by the society. Thereafter, there is a procedure with regard to lodging of objections and decision thereon. Rule contemplates publication of final Voters' List. If the election programme at page 17 of the paper book is perused, then, there is reference to all such steps. The last date of preparation of final Voters'

List and its publication is indicated as 18 December 2015. The objection of the petitioner is to the inclusion of names of Respondent Nos. 3 to 36 in the final Voters' List so published. As noted earlier, the petition is untenable. Besides, this appears to be a case where the petitioner-society seeks to take advantage of its own wrongful act in not even accepting the applications for memberships of Respondent Nos. 3 to 36. Writ jurisdiction is not meant to assist the petitioner to seek to take advantage of their own wrongful acts.

6 For the aforesaid reasons, the Writ Petition is dismissed.

7 There shall be no order as to costs.

(M.S. SONAK, J.)