

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

WRIT PETITION NO.8077 OF 2016

Shri. Suresh Bhau Choudari & Anr. ..Petitioners

V/s.

State of Maharashtra

Through Secretary,

Dept. of Co-operation & Ors. ..Respondents

WITH

WRIT PETITION NO.8078 OF 2016

Shri.Laxman Bendu Shelar & Ors. ..Petitioners

V/s.

State of Maharashtra

Through Secretary,

Dept. of Co-operation & Ors. ..Respondents

WITH

WRIT PETITION NO.8079 OF 2016

Shri.Sandip Kundalik Suroshi ..Petitioners

V/s.

State of Maharashtra

Through Secretary,

Dept. of Co-operation & Ors. ..Respondents

Mr.Harshad M. Inamdar for the Petitioner in all matters.

Mr.V.N. Sagare, AGP for the Respondent-State in all matters.

**CORAM : ANOOP V. MOHTA AND
G.S. KULKARNI, JJ**

DATE : 19th JULY 2016

ORDER :

1. All these petitions are filed by petitioners who are

the member of the societies in question, the election of which was held on different dates. There is no issue that the election process is already over and the elections are held. The challenge, therefore, so raised and the prayers so made on the foundation of stated illegality committed by the concerned officers at the relevant time, even if any, cannot be considered in the Writ Petition at this stage. Further that various factual aspects and details are urged and are required to be dealt with in the present petition, in view of the averments so made and for the prayers so sought. In the present case, even after going through the documents and as disputed questions or facts are involved and as the law is settled so far as this part is concerned, the disputed questions cannot be gone into in the present petition. We are therefore not inclined to consider the petitioners prayers so made. The remedy available to the petitioners needs to be invoked by moving appropriate application in accordance with law to challenge the elections. The learned counsel appearing for petitioners has relied upon a judgment in the case of the *Election Commission of India V/s. Ashok Kumar and Others [(2000) 8 Supreme Court Cases*

216J]. The submission, therefore, so made by referring to para 34 needs to be considered in the back ground of the litigation by and between the parties. In this case, the interim order was passed by the High Court in exercise of Writ jurisdiction during the currency of process of the election whereby the notification issued by the Election Commission was stayed with various directions. In the present case, as noted, the election process itself is over. The petitioners have alternative remedy, as noted is available. The judgment, therefore, so cited is of no assistance for the prayers so sought by the petitioners and even otherwise for the reasons so recorded above.

2. The judgment of Learned Single Judge of this Court (Nagpur Bench) in the case of *Kawadu Undruji Kundawar V/s. Additional Collector & Ors. [2007(3) Bom.C.R.157]* is also of no assistance as that was a case of holding meeting for finalization of voters list. The present case, as recorded above, has already crossed those stages and therefore, this judgment is also of no assistance.

3. Therefore, taking an over all view of the matter and considering the position of law and as the Election process is already over, we are not inclined to entertain the present Writ Petition. However, in terms of the remedy available to the petitioners are free to proceed accordingly. All petitions are therefore dismissed. No order as to costs.

4. It is made clear that we have not gone into the merits of the issues so raised by the petitioner.

5. In view of the above reasonings, no costs.

(G.S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)