

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.5673 OF 2015

Gopal s/o Kashinath Pawar
-vs-
State of Maharashtra and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mrs R. D. Raskar, Advocate for petitioner.
Shri K. L. Dharmadhikari, AGP for respondent Nos.1
and 2.
Shri A. M. Ghare, Advocate for respondent No.3.
Shri P. V. Ghare, Advocate for respondent Nos.7, 8,
12, 14, 21 to 25, 33.
Shri P. S. Patil, Advocate for respondent No.9.

CORAM : A.S.CHANDURKAR, J.
DATE : JULY 27, 2016

In view of notice for final disposal, the learned counsel for the parties have been heard at length. The challenge in the present writ petition is to the order dated 21/09/2015 passed by the Election Officer rejecting the objections raised by the petitioner to the preparation of the provisional voters' list.

In the elections that were to be held for electing the Managing Committee of the respondent No.3-co-operative society, a provisional voters' list was published on 29/08/2015. The petitioner raised objection to the inclusion

of the respondent Nos.4 to 35 in the said list. According to the petitioner, the respondent Nos.4 to 24 were members of the Managing Committee in the earlier term but they or their relatives were defaulters and hence their names could not have been included in the provisional voters' list. Similarly, objection was raised to the inclusion of the respondent Nos.20 to 35 on the ground that they were not entitled to have their names included in the voters' list in view of provisions of Section 73CA of the Maharashtra Co-operative Societies Act, 1961. The Election Officer by the impugned order rejected the objection by observing that the respondent nos.4 to 24 or their relatives were not shown to be defaulters and the objection seeking verification of the aspect of default was beyond the scope of adjudication of the objections to the provisional voters list.

Ms Raskar, the learned counsel for the petitioner submitted that the order passed by the Election Officer rejecting the objections was without application of mind and the same was passed in a cursory manner. The objection as raised went to the root of the matter as the right of the said respondents to be entered in the provisional voters list was itself under challenge. It was submitted that as a result of the impugned order, ineligible voters had participated in the elections.

Shri A. M. Ghare, the learned counsel for the respondent-bank and Shri K. L. Dharmadhikari, the learned Assistant Government Pleader for the respondent Nos.1 and 2 supported the impugned order. It was pointed out that only a summary enquiry was contemplated under the election rules while deciding objections to the preparation of the provisional voters list. The objections raised were vague and were based on the audit report of the year 2011. It was therefore submitted that the objection was not rightly entertained by the Election Officer.

Having heard the respective counsel, I do not find that the Election Officer committed any error in rejecting the objection raised by the petitioner to the provisional voters list. In the impugned order it has been observed that the respondent Nos.4 to 24 were not shown to be defaulters by the bank and said stand was accepted in the summary enquiry. In so far as the other objection is concerned, it can be seen that it is based on the report dated 23/04/2012 pertaining to the period from 2007-2011. The request made in the objection is to verify the aforesaid facts. In the summary nature of enquiry, the Election Officer did not commit any error by declining to make any further enquiry in the matter. Hence, I do not find any fault with the impugned order.

During pendency of the writ petition, the elections have been held. If the petitioner is still aggrieved by the result of the elections, it is open for the petitioner to raise challenge to the said elections. The observations made in the present order are only for considering the challenge to the order of the Election Officer and the same shall not come in the way of the petitioner if the elections are challenged by invoking the statutory remedy. Accordingly, the petition is disposed of with no order as to costs.

JUDGE

-: C E R T I F I C A T E :-

“ I certify that this Judgment/order uploaded is a true and correct copy of the original signed Judgment/order.”

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