

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 2768 OF 2017

1. Tukaimata Shetkari Dhanya Adhikosh
Seva Sahakari Sanstha Ltd., Awai,
Tq. Purna, Dist. Parbhani.
Through its Chairman,
Hari S/o Ramchandra Buchale,
Age: 37 years, Occu: Agril.,
R/o. Awai, Tq. Purna, Dist. Parbhani.
2. Godagir Shetkari Dhanya Adhikosh
Seva Sahakari Sanstha Ltd., Ganpur,
Tq. Purna, Dist. Parbhani.
Through its Chairman,
Kundlik S/o Babarao Kalbande,
Age: 32 years Occu: Agril.,
R/o. Ganpur, Tq. Purna, Dist. Parbhani.
3. Vinayak Shetkari Dhanya Adhikosh
Seva Sahakari Sanstha Ltd., Pimpla Bhatya,
Tq. Purna, Dist. Parbhani.
Through its Chairman,
Premala Gangadhar More,
Age: 37 years, Occu: Agril.,
R/o. Pimpla Bhatya, Tq. Purna, Dist. Parbhani.
4. Tarangan Shetkari Dhanya Adhikosh
Seva Sahakari Sanstha Ltd., Pangra(Purna),
Tq. Purna, Dist. Parbhani.
Through its Chairman,
Santram S/o Nagorao Dhone,
Age: 30 years, Occu: Agril.,
R/o. Pangra(Purna), Tq. Purna, Dist. Parbhani.
5. Baliraja Shetkari Dhanya Adhikosh
Seva Sahakari Sanstha Ltd., Mamdapur,
Tq. Purna, Dist. Parbhani.
Through its Chairman,
Hariram S/o Baburao Kalbande,
Age: 32 years, Occu: Agril.,
R/o. Mamdapur, Tq. Purna, Dist. Parbhani.

6. Kondji Maharaj Shetkari Dhanya Adhikosh
Seva Sahakari Sanstha Ltd., Suki,
Tq. Purna, Dist. Parbhani.
Through its Chairman,
Balaji S/o Keshavrao Kalbande,
Age: 62 years, Occu: Agril.,
R/o. Suki, Tq. Purna, Dist. Parbhani.
7. Tushar Shetkari Dhanya Adhikosh
Seva Sahakari Sanstha Ltd., Nila,
Tq. Purna, Dist. Parbhani.
Through its Chairman,
Ramesh S/o Shankarrao Suriwanshi,
Age: 30 years, Occu: Agril.,
R/o. Nila, Tq. Purna, Dist. Parbhani.
8. Sant Gajanan Shetkari Dhanya Adhikosh
Seva Sahakari Sanstha Ltd. Barbadi,
Tq. Purna, Dist. Parbhani.
Through its Chairman,
Rameshrao S/o Zelaji Shinde,
Age: 25 years, Occu: Agril.,
R/o. Barbadi, Tq. Purna, Dist. Parbhani.**Petitioners**

Versus

1. The State of Maharashtra,
Through Secretary,
Marketing Department,
Mantralaya, Mumbai-32
2. The Director of Marketing,
Maharashtra State, Pune,
3rd Floor, New Administrative
Building, Pune-411 001.
3. The Divisional Joint Registrar,
Co-operative Societies, Aurangabad,
Tq. and Dist. Aurangabad.
4. The District Deputy Registrar,
Co- operative Societies, Parbhani.
Tq. and Dist. Parbhani.

5. The Assistant Registrar,
Co-operative Societies, Purna,
Tq. Purna, Dist. Parbhani.
6. The Agricultural Produce Market
Committee, Purna, Tq. Purna,
Dist. Parbhani,
Through its Secretary.
7. Purna (New) Vividh Kari Seva
Sahakari Sansthan Ltd., Purna
Through its Authorized Person
Vishal Vijaykumar Kadam
Age: 36 Occu: Agri., R/o Purna
Dist. Parbhani.
8. Kanhegaon Vividh Kari Seva Sahakari Sanstha
Tal. Purna, District Parbhani,
Through its Authorized Person
Vasudeo Nandarao Navgire
Age:50 Occu: Agri.,
R/o Kanhegaon Tq. Purna,
Dist. Parbhani.

Respondents.

Mr. S.B. Ghatol-Patil, Advocate for petitioners.

Mr. A.V. Deshmukh, AGP for respondent Nos.1 to 5.

Mr. V.M. Maske, Advocate for respondent No. 6

Mr. S.K. Chavan, Advocate for respondent Nos. 7 and 8.

CORAM : T.V. NALAWADE, J.

DATED : 23rd March, 2017.

ORAL JUDGMENT :

- 1) Rule. Rule made returnable forthwith. By consent,
heard both the sides for final disposal.

2) The petition is filed to challenge the decision given by respondent No. 4 - the District Deputy Registrar, Co-operative Societies, by which the claims of the petitioners for including their names in voters list for election to Agricultural Produce Marketing Committee (APMC), Purna (respondent No. 6) is rejected. Respondent No. 4 has rejected the claims by observing that the petitioners are not agricultural credit societies and multipurpose cooperative societies as contemplated under section 13 (1) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. This Court has carefully gone through the provisions of section 13 of the Act, the provisions of Maharashtra Co-operative Societies Act, 1960 and also the Rule 36 framed under the aforesaid Act as Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967.

3) The learned counsel for the petitioners submitted that recently other Court at this Bench has decided this point in **Writ Petition No. 1669/2017 [Pimpla Lokhande Shetkari Dhanya Adhikosh Seva Sahakari Sanstha Ltd. and Ors. Vs. The State of Maharashtra and Ors.] on 21.2.2017**, this Court has made it clear that in view of the aforesaid provisions, the multipurpose cooperative societies as mentioned in Rule 10

of Maharashtra Cooperative Societies Rules 1961 are also included in the provision of section 13 of the Special Enactment and Rules framed under the Special Enactment. This Court has carefully gone through the reasoning given by the learned Single Judge of this Court in that regard. There cannot be dispute over the proposition made by the learned Single Judge that the Societies like the petitioners/societies are included in aforesaid provisions of Special Enactment and they are entitled to vote as they are within the local jurisdiction of APMC, Purna.

4) One more point was raised by learned counsel Shri. Chavan that the claims of the petitioners were rejected by the authority on 24.1.2017 and so, the claims were not within the period prescribed under Rule 36 (sub-rule 15) of aforesaid Rules. This Court has carefully gone through that Rule also. In the Rules, it is made clear that it is the duty of the Collector and District Deputy Registrar to see that the members of all Village Panchayat, which are covered by the APMC and the societies as mentioned in the section and which are covered by the aforesaid provisions are included in the voters list. Thus, it is primary duty of the authority to see that there is such inclusion. Such Village Panchayat and societies are never expected or required to make application and the aforesaid provisions like Rule 36 is only

enabling provision to see that the errors committed are corrected. When the authority itself has not discharged the duty, it may not lie in the mouth of the authority that the claims were not made in time. In any case, in the present matter, claims were made before three days fixed for last date for nomination. In view of these circumstances, this Court holds that the authority, respondent No. 4 has committed serious error in rejecting the claims of the petitioners. It appears that the same A.G.P. and same counsel for respondent Nos. 7 and 8 had argued in Writ Petition No. 1669/2017. In any case, this Court cannot take different view than the view taken by the other Judge in aforesaid matter.

5) In the result, the petition is allowed. The order made by respondent No. 4 - District Deputy Registrar, Co-operative Societies is hereby set aside. The claims of all the petitioners are allowed and they are included in voters list. It is made clear that the right will be limited only to vote in the election.

Authenticated copy is allowed to both the sides.

[T.V. NALAWADE, J.]

ssc/