

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3520 OF 2017

- 1) Ambadas Warpudkar Krishi Upayogi
Sahitya Puravatha, Sahakari Sanstha
Mirkhel, Tq. and Dist. Parbhani
Through its Chairman
Sushil Anilrao Warpudkar,
Age 27 years, Occ. Agriculture,
R/o Mirkhel, Tq. and Dist. Parbhani.
- 2) Krushiraj Phae va Bhajipala Kharedi
Vikri Sahakari Sanstha, Mirkhel
Tq. and Dist. Parbhani.
Through its Chairman
Sow Sushilabai Anilrao Warpudkar,
Age 47 years, Occ. Agriculture,
R/o Mirkhel, Tq. & Dist. Parbhani.
- 3) Dadahari Dhanya Adhikosh Seva
Sahakari Sanstha Warpud,
Tq. and Dist. Parbhani.
Sandep Madhukarrao Deshmukh,
Age 27 years, Occ. Agriculture,
R/o Warpud, Tq. & Dist. Parbhani.
- 4) Bhumiputra Phale va Bhajipala Kharedi
Vikri Sahakari Sanstha, Warpud
Tq. and Dist. Parbhani
Through its Chairman,
Vithal Dinkarrao Deshmukh,
Age 32 years, Occ. Agriculture,
R/o Warpud, Tq. and Dist. Parbhani.
- 5) Dadahari Krushi Utpanna Sahitya
Puravatha Sahakari Sanstha
Warpud, Tq. and Dist. Parbhani
Through its Chairman,
Sachin Bhagwanrao Deshmukh,
Age 36 years, Occ. Agriculture,
R/o Warpud, Tq. and Dist. Parbhani.

... **Petitioners**

Vs.

- 1) The State of Maharashtra
Through Secretary
Cooperation and Marketing Textile
Department, Mantralaya, Mumbai.
- 2) The District Deputy Registrar,
Cooperative Societies
Parbhani, Tq. and Dist. Parbhani.
- 3) The Assistant Registrar,
Cooperative Societies Parbhani,
Tq. and Dist. Parbhani.
- 4) The Agricultural Produce Market
Committee, Tadkalas,
Tq. and Dist. Parbhani.

... **Respondents**

Mr. Arvind Deshmukh, Advocate for the Petitioners.
Mr. S.R. Yadav Lonikar, AGP for respondent-state.
Mr. S.B. Ghatol Patil, Advocate for respondent no.4.

CORAM : P.R. BORA, J.
DATE : 29-03-2017.

ORAL JUDGMENT :

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

2. The petitioners are the Co-operative Societies, registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 (for short the Act, 1960) read with the Maharashtra Co-operative Societies Rules, 1961 (for short Rules, 1961). They are functioning within the market area of the Agricultural Produce Market Committee, Tadkalas, District Parbhani (Respondent No.4). Since their names were not included in the provisional list of voters prepared for the election of Agricultural

Produce Market Committee, Tadkalas, all these societies filed applications to the District Deputy Registrar, Co-operative Societies, Parbhani with a request to include their names in the final list of voters. The District Deputy Registrar, Co-operative Societies, Parbhani (Respondent No.2), however, rejected the requests so made by the societies vide communication dated 23.02.2017.

3. All these orders are challenged in the present petition. Shri Deshmukh, the learned counsel appearing for the petitioners submitted that, request so made by the petitioner-societies has been rejected by the District Deputy Registrar on the ground that these societies do not fulfill the criteria of Section 13(1)(a)(i) of The Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (for short the APMC Act). The learned counsel further submitted that, the similar request made by the Pimpla Lokhande Shetkari Dhanya Adhikosh Seva Sahakari Sanstha Ltd. and other fourteen Co-operative societies was also rejected on the similar ground. The learned counsel submitted that, these societies approached this Court by filing Writ Petition no. 1669 of 2017 and the said Writ Petition has been allowed by this Court (Coram: S.B. Shukre, J.) vide judgment dated 21.02.2017. The learned counsel has placed on record the copy of the said judgment. The learned counsel further submitted that, in view of the judgment passed in the aforesaid writ petition, the present petition also deserves to be allowed.

4. The learned A.G.P. has not disputed the fact that societies which are the petitioners in the present petition stand at par with the societies which were the petitioners in Writ Petition no. 1669 of 2017. The learned A.G.P. has further not disputed that, in the aforesaid writ petition also the request of the societies which were petitioners in the said matter, was inclusion of their names in the voters list for the election of A.P.M.C. Purna and it was rejected on the ground that the said societies do not fulfil the criteria of Section 13(1)(a)(i) of the APMC Act. It is further not disputed that this Court vide the judgment delivered in the aforesaid writ petition has turned down the said objection and has allowed the writ petition thereby directing inclusion of the names of the petitioner societies in the said writ petition in the final voters list. The learned A.G.P., however, has raised an objection for the inclusion of the name of petitioner no.1-society in the voters list alleging that the said society has gone in liquidation and a Liquidator has been appointed on the said society. The learned A.G.P. submitted that the facts so stated in the affidavit in reply filed on behalf of respondent nos. 2 and 3 is not controverted by the petitioner no.1-society by filing any re-joinder.

5. Shri Deshmukh, the learned counsel appearing for the petitioners resisted the contentions so raised by the learned A.G.P. The learned counsel submitted that all relevant papers are produced by petitioner no.-1-society before the appropriate

authority and, in the circumstances, there is no question of appointment of liquidator on the said society.

6. One more objection has been raised by the learned A.G.P. that the election programme is in progress and the voting is scheduled on 16.04.2017 and in such circumstances the request of the petitioner-societies cannot be accepted for inclusion of their names in the voters list at such belated stage and the only option available to them is to file election petition.

7. I have gone through the judgment delivered by this Court in Writ Petition no. 1669 of 2017. As noted herein-above the learned A.G.P. has conceded that in so far as the petitioner nos. 2 to 5 are concerned, in view of the judgment in Writ Petition no. 1669 of 2017, the objection that these societies do not fulfill the criteria of Section 13(1)(a)(i) of the APMC Act would not sustain. The another objection raised on behalf of the respondents that at such belated stage the request for inclusion of the names in voters list cannot be entertained would also not sustain, in view of sub-clause 15 of Rule 36 of The Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 which reads as under:

"(15) Any persons whose name is not entered in the final list of voters as republished under sub-rule (14) may at any time but not later than 3 days before the last date for nomination apply to the Collector for inclusion of his name in the list."

8. In view of the above, in so far as the petitioner nos. 2 to 5 are concerned, I see no difficulty in allowing the requests made by these societies for inclusion of their names in the voters list. In so far as the petitioner no.1-society is concerned, it would be open for the said society to move a fresh petition by placing on record all necessary documents to rebut the allegations that the said society has gone under liquidation.

9. In view of the above, the order dated 23.02.2017 passed by the District Deputy Registrar, Co-operative Societies is quashed and set aside to the extent of petitioner nos. 2 to 5. It is directed that the names of the petitioner nos. 2 to 5 be included in the final voters' list. In so far as the petitioner no.1-society is concerned, the petition stands dismissed, however, as noted above with liberty to the said society to move a fresh petition.

10. For the reasons stated above, the petition stands allowed in the aforesaid terms. No costs.

11. Parties to act on the authenticated copy of this order.

(P.R. BORA)
JUDGE