

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4586 OF 2017
(Hanuman Pani Watap Sahakari Sanstha Maryadit, Kamlapur and
others Vs. The State of Maharashtra and others)

Mr.R.L.Kute h/f Mr.V.R.Dhorde, learned counsel for the petitioners.
Mr.M.B.Bharaswadkar, learned AGP for the State.

(CORAM : M.S.Sanklecha, J.)

DATE : 13/04/2017

PER COURT :

1. As the challenge in this petition is likely to affect the election to Agricultural Produce Market Committee (APMC), all the counsel in unison request that this petition be disposed of finally. Therefore, the petition is taken up for final disposal.

2. This is a petition filed by 11 co-operative societies, challenging 2 orders both dated 31/03/2017 passed by the District Deputy Registrar, Parbhani.

3. The two impugned orders have rejected the applications/ objections filed at their names, not being included in the final electoral list of the members permitted to vote at the election scheduled on 16/04/2017 of the Managing Committee of A.P.M.C.

Tadkalas. Both on the ground that the application/objection that their names are not included in the final voters' list was not made within the limitation provided u/s 36(15) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 (Rules) which requires such an objection to be made not later than 3 days before the last date for submission of nomination. Admittedly, the objections/applications filed by the petitioners in this case is after the last date for submitting of nomination.

4. One impugned order dated 31/03/2017 deals with 6 of the petitioners/societies and the other order dated 31/03/2017 deals with 5 of the petitioners/societies before me. This issue is no longer *res-integra* in view of the decision of this Court in WP NO.3520/2017 in Ambadas Warpudkar Krishi Upayogi Sahitya Puravatha Sah.Sanstha and others Vs.The State of Maharashtra and others, rendered on 29/03/2017.

5. However, it was contended by the respondents and the intervener that the petition should be dismissed as an alternative remedy under Rule 88 of the Rules is available to the petitioner of filing an election petition after the election results are declared. I note that other societies challenging similar orders were entertained

and allowed by this Court. (See Ambadas Warpudkar Krishi Upayogi) (supra). No distinguishing feature is shown which would warrant taking a different view in this case. Therefore, in view of the rule of consistency, the above submission is not acceptable. Further, in any case the election petition under Rule 88 of the Rules is to be filed before the District Deputy Registrar, Co-operative Societies. It is this very authority i.e. District Deputy Registrar, Co-operative Societies, who has already taken a view by passing the impugned order. Therefore, the alternative remedy as urged is not in these facts an efficacious remedy.

6. The intervener contends that petitioner Nos. 6 to 11 are no longer in existence as according to him it has been liquidated. However, this is not the objection of the State nor is it the basis of the impugned orders rejecting the petitioners' applications. The State has not objected to the existence of petitioner nos. 6 to 11 before me and therefore for the purpose of this petition, they are very much in existence. IT is made clear that allowing the petitioners to vote on 16/04/2017 would not be deemed to have negated the stand of the intervener. Needless to state, if any right are available to the intervener under the Law to challenge the existence of the petitioner Nos. 6 to 11, the same is undisturbed by this order.

7. In the above view, the petition is allowed. Respondent No.2/ District Deputy Registrar, Co-operative Societies, Parbhani is directed to include the names of 11 petitioners in the final electoral list for election scheduled on 16/04/2017.

8. Petition stands allowed in the above terms. No order as to costs.

(M.S.Sanklecha, J.)