

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4670 OF 2017
(Manmath Swami Krishi Upyogi Sahitya Purwatha Sewa Sahakari
Sanstha Maryadit Vs. State of Maharashtra and others)

Mr.S.B.Sontakke, counsel for the petitioner
Mr.M.B.Bharaswadkar, AGP for respondent/State.
Mr.S.B.Ghatol Patil, counsel for respondent No.4.

(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 at this stage. Therefore, the petition taken up for final disposal.

2. This petition challenges the order dated 31/03/2017 passed by the District Deputy Registrar, Co-operative Societies, Parbhani. By the impugned order, the petitioner's application for inclusion of its name in the final voters' list was rejected on the ground that the objection/claim to be included in the final voters list, eligible to vote at the elections to the APMC, scheduled to be held on 16/04/2017, was not made 3 days before the last date for submission of nomination as required in the Maharashtra Agricultural Produce

Marketing (Development and Regulation) Rules, 1967.

3. The ground on which the impugned order rejected the petitioner's application to be included in the voters list is no longer *res-integra* in view of the decisions 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. The above decision has taken a view that a right of a member to vote at the elections of the APMC, cannot be denied merely on account of the fact that the objection that its name has not been included in the voters' list, has not been received 3 days before the last date for submission of the nomination. Therefore, following the above decision, the petition would have to be allowed.

4. 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.

5. In the above view, the petition is allowed by setting aside the order dated 31/03/2017 of respondent No.2-District Deputy Registrar, Parbhani. Further he is directed to include the name of the petitioner/society, in the voters' list for the election to be held on 16/04/2017,

6. Accordingly, the petition is allowed in the above terms. No order as to costs.

(M.S.Sanklecha, J.)