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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6871 OF 2017

**RAJABHAU UTTAMRAO PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**...
Advocate for Petitioner : Patil N.P. Jamalpurkar
AGP for Respondents: Mr.S.B.Yawalkar for R.1.
Adv.Mr.S.K.Kadam for R.2 and 3.**

**...
CORAM : S.C.DHARMADHIKARI &
MANGESH S. PATIL,JJ.**

DATE : 07/06/2017

PER COURT :-

The petitioner complains that though eligible to vote and contest at the elections, the petitioner's name has been wrongly excluded from the list.

2] Reliance is placed upon the report of the Assistant Registrar which according to the petitioner certifies the petitioner as eligible to vote at the election and therefore recommends that his name be included in the voter's list.

3] However, according to the petitioner's counsel, the impugned order ignores this report and for untenable reasons. The petitioner cannot be faulted for the acts attributed by the election officer to the managing committee or the general body of the society.

4] Upon perusal of the writ petition and all its annexures, we are of the opinion that firstly the petitioner is not remedy-less. In the

event the petitioner is wrongly excluded from the election process, he has a remedy to dispute the same by filing proceedings under the Maharashtra Cooperative Societies Act, 1960. Secondly there is clear dispute about the factual position. The petitioner may claim to have been rightly taken as member but the election officer on perusal of the records found that the petitioner's application was before the society and there is an entry of its receipt in the record of the society. But that entry is scored off. Secondly, there is no record of the application being placed before any meeting of the managing committee or the general body for seeking approval to petitioners membership. The petitioner may claim otherwise. We do not think that we should exercise our limited jurisdiction for entering into such factual dispute. In these circumstances by clarifying that the petitioner can dispute the legality and validity of the whole process by appropriate legal proceedings and keeping open all contentions therein, we dispose of this petition.

(MANGESH S. PATIL,J.)

(S.C.DHARMADHIKARI,J.)

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