

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.764 OF 2017

Babaso Keshav Patil

..Petitioner

Versus

District Deputy Registrar,

Co-operative Society, Kolhapur and another

..Respondents

Mr. Mahindra Deshmukh for the Petitioner.

Mr. S. L. Babar, AGP for the Respondent No.1.

Mr. A. B. Borkar for the Respondent No.2.

CORAM : R. M. SAVANT, J.

DATE : 17th JANUARY, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 28.12.2016 passed by the District Co-operative Election Officer and District Deputy Registrar of Co-operative Societies, Kolhapur, by which order, the objection raised by the Petitioner to the provisional voters' list in respect of 184 persons appearing in the said list came to be rejected.

2 The Respondent No.2 herein is a multi-purpose society and whose elections are due. With a view to conduct elections to the managing committee of the Respondent No.2 society, that a provisional list of voters' was published in terms of the preliminary programme for the said elections. On the said list being published, the Petitioner herein

raised an objection to the said 184 names. The said objection was founded on the ground that the said 184 persons are not eligible to be members as 28 of them are not residents of the village in question and 156 of them are not holding land to the extent required by the concerned bye law of the Respondent No.2 society. It was therefore the case of the Petitioner that since the said 184 persons are not eligible to be members, they are not entitled to be in the provisional list of voters. The said objection was considered by the District Co-operative Election Officer who as indicated above has by the impugned order dated 28.12.2016 rejected the said objection. The said rejection is inter-alia on the ground that the said 184 persons have been accepted as members pursuant to the resolution passed in a meeting of the Respondent No.2 society and that the grievance as regards whether they are entitled to be members can be gone into only by the Registrar under Section 11 of the Maharashtra Co-operative Societies Act, 1960, and that the election authority could not do so.

3 It was the contention of the Learned Counsel for the Petitioner that in terms of Rule 8 of the Co-operative Election Rules the election authority is obliged to consider the objections to the said provisional voters' list and rule upon the said objections. It was therefore the submission of the Learned Counsel that the District Co-operative

Election Authority ought to have adjudicated upon the said objections by considering the material on record. In so far as the enquiry under Rule 8 Co-operative Election Rules is concerned, it is well settled by the judgments of this Court that the said enquiry is of a summary nature and the election authority cannot go into the aspect of whether a person is entitled to be a member or not. In my view, having regard to the aforesaid legal position, in so far as Rule 8 of the Election Rules is concerned, the order passed by the District Co-operative Election Authority rejecting the objection on the said ground cannot be faulted with. No case for interference in the writ jurisdiction of this Court is therefore made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]