

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 245 OF 2018
WITH
WRIT PETITION NO.267 OF 2018

UTTAM BABANRAO NALAWADE
VERSUS
THE STATE CO OPERATIVE COMMISSION AND ORS

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Advocate for Petitioner in WP 245/2018 : Shri Patil S.A.
h/f Shri Salunke V.D.

Advocate for Petitioner in WP 267/2018 : Shri Bhapkar S.L.
Additional Standing Counsel for Respondent 3 in WP 245/2018
and respondent Nos.1 and 2 in WP 267/2017 : Shri Dighe V.H.

AGP for Respondents - State authorities : Shri Tambe S.K.
Advocate for Respondent 28 in WP 245/2018 : Shri Kokate M.S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 08, 2018

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PER COURT :-

1. In both these petitions, the petitioners are aggrieved by the order of the Returning Officer, thereby in rejecting their objections with regard to certain voters, who have been included in the final voters' list. Both the petitioners pray for deletion of certain voters from the valid voters' list.

2. I have considered the submissions of the respective counsel.

3. The polling with regard to the society elections are scheduled

on 14.1.2018 for the term 2018-2023. The provisional voters' list was declared on 7.12.2017 and the objections were called for till 11.12.2017. There is no dispute that the objectors have submitted their objections within the time prescribed. The Returning Officer had rejected the objections and the final voters' list is prepared on 14.12.2017. The first petition has been filed on 4.1.2018 and the second petition has been filed on 5.1.2018.

4. Section 11 of the Maharashtra Cooperative Societies Act permits the aggrieved party to approach the Assistant Registrar of Cooperative Societies, for challenging the order of the Returning Officer and for seeking interference in the final voters' list. The petitioner in the second petition has already preferred such a proceeding which is pending before the concerned authority.

5. The learned Division Bench of this Court, in the matter of Karbhari Maruti Agawan and others Vs. State of Maharashtra and others [1994 (2) Mah.L.J. 1527], has concluded that this Court should rarely entertain a challenge to the voters' list considering the disputed questions. Powers under Section 11 can be exercised by the competent authority till the voters' list is declared to be final. The availability of an alternate efficacious remedy after the election is also to be kept open for such aggrieved members.

6. Considering the above and the fact that both these petitions cannot be entertained without service of notice on the respondents individuals and keeping in view that the polling is scheduled on 14.1.2018, both these petitions are disposed off with liberty to the petitioners to avail of such remedy as may be permissible in law for challenging the inclusion or deletion of any voter from the final voters' list. The disposal of these two petitions would not be an impediment for the petitioners to avail of such a remedy.

(RAVINDRA V. GHUGE, J.)

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