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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7891 OF 2018

Bhimrao Rama Randwe ... Petitioner
Vs.
The State of Maharashtra & Ors. ... Respondents

Mr. Sachin Deokar, for the Petitioner.

Mr. A. I. Patel, Additional Government Pleader for the
Respondent No. 1.

Mr. Deelip N. Patil – Bankar, for Respondent No. 2.

CORAM : R. M. BORDE &
V. M. DESHPANDE, JJ.

DATE : AUGUST 2, 2018

ORAL JUDGMENT :-

1. Heard. Rule. Rule made returnable forthwith.
Learned Additional Government Pleader and the learned counsel
Mr. Deelip Patil-Bankar waive service of notice for Respondent
No. 1 and Respondent No. 2 respectively. By consent of parties,
petition is taken up for final hearing.

2. Petitioner is aggrieved by an order passed by the
District Collector and the Election Officer, A.P.M.C., Karmala on

7th July, 2018, rejecting the application for inclusion of his name in the electoral roll prepared by the Agricultural Produce Market Committee, Karmala under Section 13(1)(a-i) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. A provisional voters list is stated to have been published on 13.6.2018 and as per the programme of finalisation of voters list, objections were called for provisional voters list till 25.6.2018. The Petitioner has filed an application to the District Election Officer and A.P.M.C. Karmala, objecting deletion of his name and requesting to include his name in the final voters list. The Petitioner pointed out to the District Election Officer in his application that he is resident of village Jinti and he is holding agricultural land Gat No. 118/17. It is also recorded in the application that in the said land he takes Jawar, Kadwal crops. The Petitioner alongwith his application has tendered copy of 7-12 extract, 8-A proforma, issued by Talathi and copy of Adhar Card, card as well as the certificate issued by the Talathi certifying that the Petitioner has produced

crop of Jawar during preceding three years. The District Election Officer, however, overlooking the objections of the Petitioner, has turned down his application for including his name in the voters list. The reason recorded for rejecting the application is that the land which is stated to have been possessed by the Petitioner is not cultivable, as is apparent from the 7-12 extract. The Petitioner contends that in fact he cultivates land and has taken the crop of Jawar in preceding three years.

3. The Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 are framed for regulating conduct of elections of APMC in the State. Rule 2(21) defines “voter” to mean (i) an agriculturist residing in Market Area, who holds minimum 10 R land and who is not less than 18 years of age and who has sold his or her notified agricultural produce at least 3 times in the preceding 5 years before date of declaration of provisional voters list programme; (ii) licensed trader or commission agent; (iii) licensed weighman

and hamal.

4. It is the contention of the Respondent that since the land possessed by the Petitioner is not cultivable, an inference needs to be drawn that he has not brought agricultural produce at least three years in the preceding five years to market before the provisional voters list programme. There is absolutely nothing placed on record to substantiate the aforesaid contention. The application tendered by the Petitioner has not been turned down for the reason that he has failed to bring the notified agricultural produce in the market at least once in three years of preceding five years before declaration of provisional voters list programme.

5. It is specifically contended by the Petitioner that he has grown crop of Jawar in preceding five years before the declaration of provisional voters list programme. It is specifically contended by the Petitioner that he has grown crop of Jawar during preceding three years. A certificate issued by the Talathi of the village was also placed on record by the Petitioner

before the District Election Officer. The District Election Officer has overlooked the documents presented by the Petitioner and has passed impugned order, rejecting the application tendered by the Petitioner for inclusion of his name in the voters list merely on drawing an inference, which has no foundation. The order passed by the District Election Officer is without application of mind to the record presented by the Petitioner. It does appear that the Petitioner has fulfilled all the requirements for enlisting his name in the voters list, prepared by the A.P.M.C. Karmala. Writ petition deserves to be allowed. The impugned order passed by Respondent No. 2 – District Collector and Election Officer, A.P.M.C. Karmala on 7th July, 2018 is quashed and set aside, directing Respondent No. 2 to enlist name of the Petitioner in the final list of voters. Rule is made absolute in the aforesaid terms. No costs.

Sd/-
[V. M. DESHPANDE, J.]

Sd/-
[R. M. BORDE, J.]

Vinayak Halemath