

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH : NAGPUR****WRIT PETITION NO.1062/2020**

(Pundlik S/o Kisan Wadhai and another Vs. District Co-operative Election Officer and others)

WRIT PETITION NO.1112/2020

(Santosh S/o Narayanrao Nikam Vs. The District Election Officer and others)

WRIT PETITION NO.1128/2020

(Sumit S/o Rameshchandra Bajoriya and another Vs. The District Co-operative Election Officer)

WRIT PETITION NO. 1327/2020

(Narendra s/o Keshav Tahakre vs. The Returning Officer for the Elections and another)

WRIT PETITION NO.1039/2020

(Sau Vani Ram Aietwar and another Vs. District Co-operative Election Officer and others)

WRIT PETITION NO.1056/2020

(Pravin Krishtareddy Boddamwar Vs. District Co-operative Election Officer and others)

WRIT PETITION NO.1057/2020

(Jagdish Babarao Umbarkar Vs. District Co-operative Election Officer and others)

WRIT PETITION NO.1058/2020

(Suresh Ganganna Bolenwar Vs. District Co-operative Election Officer and others)

WRIT PETITION NO.1060/2020

(Shri Pravin Shivreddy Nomulwar Vs. District Co-operative Election Officer and others)

WRIT PETITION NO.1348/2020

(Shri Manish S/o Uttamrao Patil Vs. State of Maharashtra and others)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M.V. Samrath, learned Senior Counsel a/b Shri A.S. Dhore, counsel
and Shri Tejas Patil, counsel for petitioners in W.P. Nos. 1327, 1039,
1056, 1057, 1058, 1060/2020 .

Shri A.M. Ghare, counsel for petitioners in W.P. No. 1348/2020

Shri P.C. Madkholkar, counsel for respondent No.4.

Shri A.M. Ghare, counsel for petitioners in W.P. No. 1128/2020
and W.P. No.1112/2020.

Shri F.T. Mirza, counsel for respondent Nos. 4 and 5.

Shri M.I. Dhattrak, counsel for petitioners in W.P. No.1062/2020

Shri K.J. Topale, counsel for respondent No.8

Shri A.R. Chutake, A.G.P. for respondent/State in all Writ Petitions.

CORAM : MANISH PITALE J.

DATED : 18/12/2020

All these writ petitions arise out of the orders passed by the District Cooperative Election Officer/ Returning Officer concerning process of preparation of electoral roll for election to the District Central Cooperative Bank Ltd., Yavatmal, under the provisions of the Maharashtra Cooperative Societies Act, 1960 and the Rules framed thereunder. In all these petitions grievances of the petitioners pertain to the alleged illegal manner in which the Election Officer has either included or deleted names of persons from the electoral roll. Although, the grounds on which the impugned orders, are challenged are diverse, there is no dispute about the fact that controversy pertains to preparation of appropriate electoral rolls in accordance with law, in respect of the elections concerning the aforesaid Bank.

2. This Court had issued notices in these writ petitions and in some of these petitions, interim orders were also passed.

3. It was expected that the writ petitions would be taken up for final disposal, in view of the impending election concerning the said Bank, but, due to the situation created by the COVID-19 pandemic and consequent lock-down imposed, the entire process of election stood postponed. Liberty was reserved in some of these writ petitions for the counsel to mention these

petitions for urgent listing if at all the actual stage of polling / election was specified.

4. It is in this backdrop, that this bunch of writ petitions was mentioned for urgent listing and they were directed to be listed today, in view of the fact that polling is to take place on Monday, 21st December, 2020. It is relevant that in one of the matters, there was a direction from the Hon'ble Supreme Court for holding elections at the earliest.

5. When these writ petitions are called out for hearing, an objection is raised that the nature of dispute sought to be raised in these writ petitions pertains to the question of inclusion or deletion of names from the electoral roll. The petitions raise challenge directly to the orders passed by the Election Officer in that context. It was submitted by learned counsel appearing for the parties opposing the present writ petitions that the nature of dispute sought to be raised in these writ petitions could and ought to be raised by recourse to statutory remedy provided under Section 91 of the aforesaid Act read with Rule 78 pertaining to the election dispute under the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014. It was pointed out that the forum for raising such a dispute was the Cooperative Court under Section 91 of the aforesaid Act, particularly for the reason that the dispute could be properly decided before the Court affording proper opportunities for the rival parties to lead evidence in

respect of the controversy sought to be raised. Rule 78 of the said Rules provides for election petition to be presented before the Cooperative Court, as laid down in Section 91 of the said Act, which pertains to raising of disputes before the Cooperative Court.

6. Attention of this Court was invited to a judgment of the Division Bench of this Court in the case of **Pandurang Laxman Kadam and others vs. State of Maharashtra and others, 2015 SCC OnLine Bom 5840**. It was submitted that in the said judgment, the Division Bench of this Court referred to earlier judgment of this Court and the Hon'ble Supreme Court to conclude that the jurisdiction of the Cooperative Court under Section 91 of the said Act is in substance very wide and that dispute raised by the petitioners therein pertaining to inclusion of certain names in the list of voters for the election, could certainly be decided by raising an appropriate election dispute in terms of the statutory provisions. Reliance was also placed on the judgment of the Hon'ble Supreme Court in the case of **Laxmibai vs. Collector, Nanded and others, 2020 SCC OnLine SC 187**, in support of the aforesaid contentions.

7. This Court has perused the nature of the orders impugned in all these writ petitions. Undisputedly the impugned orders pertain to the grievance raised on behalf of the petitioners with regard to inclusion or deletion of names of persons in the electoral roll, which is a controversy similar to the one before the aforesaid

Division Bench of this Court in the case of Pandurang vs. State of Maharashtra (supra). This Court is of the opinion that the ratio of the aforesaid judgment is squarely applicable to the facts of the present petitions. The aggrieved parties in these writ petitions can certainly raise the grievance sought to be raised in a properly presented petition before the Cooperative Court under Section 91 of the said Act read with Rule 78 of the aforesaid Rules. Therefore, this Court declines to exercise writ jurisdiction in these writ petitions on the ground that the petitioners herein can very well approach the Competent Court under Section 91 of the said Act read with Rule 78 of the aforesaid Rule.

8. Needless to say this Court has expressed no opinion on the merits of the grievance raised by the petitioners before this Court.

9. In view of the above, writ petitions are dismissed. Interim orders stand vacated. No costs.

10. Mr. Chutake, learned APP appearing for respondent authorities is requested to communicate the order passed today immediately to the said authorities for taking consequential action of deleting the names of persons from the electoral rolls, wherein this Court had passed interim orders, in view of the fact that the interim orders stand vacated due to disposal of these writ petitions.

JUDGE