

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

WRIT PETITION NO. 6286 OF 2021

Rahul s/o Uttamsing Patil .. Petitioner

Versus

The State of Maharashtra and ors. .. Respondents

Mr D.S. Bagul, Advocate for petitioner
Mr S.B. Yawalkar, Addl.G.P. for respondents no.1 to 3
Mr D.B. Thoke, Advocate for respondent no.4
Mr S.P. Brahme, Advocate for intervenors

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 30th April 2021

PER COURT :

1. Mr Bagul, learned Counsel for the petitioner submits that the elections are scheduled on 2nd May 2021. The respondent no.3 as per his order dated 15th March 2021 has held 156 members (as per Annexure 'B') to be invalid members, as they are not residing in the jurisdiction of respondent no.4 - Society. Their names are not deleted. Time and again the petitioner had to approach this Court seeking directions against the authorities to pass orders on merits. Though 156 members as per the order of respondent no.3 dated 15th March 2021 are held to be not valid, their names are not yet deleted from the voters list. These persons are ineligible to participate in the election process of the managing committee of respondent no.4 - society.

2. The learned Counsel for the petitioner submits that the petitioner is communicated by respondent no.3 that as the appeal has been filed by those 156 persons, he is not taking any decision. The learned Counsel submits that this is only to favour the members of the managing committee. Illegally the elections are being held. In fact, respondent no.3 has willfully committed contempt of the order of this Court. The names of these 156 members be deleted from the voters list.

3. Mr Thoke, learned Counsel for respondent no.4 - society submits that the appeal is filed by these 156 persons. It was at the instance of the petitioner, the matter was required to be adjourned and the same is kept on 10th May 2021. Earlier, endeavour was made to decide the appeal. However, because the petitioner was absent, the same could not be decided. The learned Counsel submits that the voters list has become final as per Rule 11 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014. The petitioner has alternate remedy of filing an Election Petition.

4. Learned Counsel Mr Brahme appears for intervenors/some of the members from the list of 156 members held to be invalid under the orders of respondent no.3 dated 15th March 2021. He also supports the arguments of Mr Thoke, learned Counsel for respondent no.4 - society.

5. Mr Bagul, learned Counsel for the petitioner reiterates that it is not because of the petitioner the matter was adjourned before the appellate authority. No stay has been granted by the appellate authority. The order of respondent no.3 dated 15th March 2021 is still in force and the names of these 156 persons deserve to be deleted from the voters list.

6. It appears that the voters list has become final after considering the objection on 4th February 2021. Rule 11 of the Rules 2014 gives finality to the voters list.

7. The election is scheduled on 2nd May 2021. It would be too late in the day now to consider the writ petition on merits.

8. The petitioner has a remedy of Election Petition. In view of that, considering the aforesaid facts on record, we are not inclined to consider the

petition on merits. The petitioner is at liberty to file Election Petition and in that event, all contentions are kept open.

9. As far as the prayer of the petitioner for postponement of elections is concerned, it is for the State Government to consider the said aspect. The State Government may take appropriate decision as per its S.O.P. and the directions issued.

10. Writ Petition accordingly disposed of with the aforesaid observations and the liberty given. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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