

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9509 OF 2021**

Someshwar Gramin Bigar Sheti Mahila]

Sahakari Patasnstha Maryadit through]

Chairman Puja Pradeep Kand] Petitioner

Vs.

The State of Maharashtra]

Through Ministry of Co-operation]

Mantralaya, Mumbai – 400 023]

and others.] Respondents

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Ms. Manjiri Parasnis, for Petitioner.

Mr. A.P. Vanarse, A.G.P, for Respondents No.1.

Mr. S.T. Bhosale i/b Mr. Dilip Bodake, for Respondents No.2 and 3.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

**DATE : 29TH DECEMBER, 2021.
[Vacation Court]**

P.C.

1. Heard learned Counsel for the petitioner for some time.

2. Learned Counsel for respondent No.2 has filed copy of the reply.

3. By this petition under Article 226 of the Constitution of India, the petitioner which is a *Patsanstha* registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 impugns the order passed by respondent No.2 on 17th December, 2021 by which a representation made by it's Chairman-Mrs. Puja Pradeep Kand came to be rejected.

4. Shorne of unnecessary details, a few facts can be summarized as follows.

5. Elections of respondent No.3 which is a Bank registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 were scheduled to be held on 2nd January, 2022 for the year 2020-2025. A resolution passed by the petitioner on 10th February, 2021 by which Mrs. Puja Pradeep Kand was appointed as a representative of the petitioner to vote on behalf of the petitioner in election of respondent No.3-Bank. The same was submitted to respondent No.2 vide letter No.9349.

6. On 3rd September, 2021, draft electoral list was published and objections were invited till 13th September, 2021. Final electoral list was published on 27th September, 2021. It was noticed by the petitioner that instead of incorporating name of "Mrs. Puja Pradeep Kand", name of her husband "Mr. Pradeep Gangadhar Kand" was incorporated in the electoral list.

7. The petitioner has come up with a specific contention that she completely overlooked and due to oversight could not notice

and realize that instead of "*Puja Pradeep Kand*" name of her husband "*Pradeep Gangadhar Kand*" was published in the final electoral list.

8. It is only on 13th December, 2021, the petitioner realized the mistake and addressed a communication to respondent No.2 on 13th December, 2021 itself. However, respondent No.2 by the impugned communication dated 17th December, 2021 rejected the prayer of Mrs. Puja Pradeep Kand to amend the name by incorporating her name in the electoral list.

9. The petitioner has come up with a specific contention that it was apparently a mistake committed by respondent No.2 which resulted in infringement of her valuable statutory right to vote in the election of respondent No.3.

10. Learned Counsel for respondent No.2 in the affidavit in reply filed on behalf of respondent No.2 has not disputed the facts averred in the petition, however, supported the impugned communication dated 17th December, 2021 by contending that it is legally correct and proper order passed by respondent No.2 since, despite giving an opportunity and sufficient time, the petitioner did not raise any objection.

11. I heard Ms. Parasnis, learned Counsel for the petitioner.

12. Ms. Parasnis would argue that it was a *bona fide* mistake and due to oversight she could not notice the list published on 27th

September, 2021 and, therefore, there is an infringement of her fundamental right, she, therefore, sought indulgence of this Court.

13. On the other hand, learned Counsel for respondent No.2 strongly opposed the contention of learned Counsel for the petitioner by stating that as to why from 3rd September, 2021 to 13th September, 2021, electoral list could not be noticed by the petitioner. The learned Counsel, therefore, submits that the petition is without merit and hence, needs to be dismissed in *limine*.

14. At the outset, it is pertinent to note that the draft electoral roll was published on 3rd September, 2021. It was on the public domain. It clearly depicts name of "*Kand Pradeep Gangadhar*". It is difficult to digest that his wife or even for that matter, Mr. Pradeep Gangadhar Kand was unmindful or unaware of publication of the list and incorporating his name therein. It is not the case of the petitioner that she was totally oblivious of the said fact. It is not even the case of the petitioner that even her husband Pradeep Gangadhar Kand was also oblivious of this fact. No sane man will accept and believe it. The reason for giving a period of 10 days from 3rd September, 2021 to 13th September, 2021 was only for the purpose of raising objections and claims, if any, to the list which was to be published finally. Apparently it appears that the petitioner acquiesced publication of name of her husband Pradeep Gangadhar Kand in the final list. It is difficult to accept that even after publication of the final electoral list on 27th September, 2021 till 13th December, 2021, the petitioner or even

for that matter, her husband was unaware of the said fact. Law helps those who are diligent and not the one who is sleeping over his or her rights.

15. For these reasons, it cannot be said that there is an infringement of fundamental right of the petitioner Mrs. Puja Pradeep Kand. I am, therefore, not inclined to exercise the equitable and discretionary jurisdiction to interfere with the impugned communication.

16. Consequently, the following order is expedient.

17. The petition stands dismissed, however, there shall be no order as to costs.

[PRITHVIRAJ K. CHAVAN, J.]