

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2802 OF 2021

1. Mr. Sursh S/o Maroti Gorale,
Aged - 60 years, Occupation-Agriculturist,
Member of Sewa Sahakari Society, Gharatwada,
R/o. Gharatwada, Ridhora,
Post-Ridhora-441103,
Tahsil Katol, District Nagpur(MS)
2. Mr. Jagan s/o Vithoba Raut,
Aged 52 years, Occupation-Agriculturist,
Member of Adiwasi Ladgaon Sahakari Society,
Ladgaon, R/o. Fetri, Khangaon,
Post-Khangaon-441302, Tahsil-Katol,
District-Nagpur(MS).
3. Mr. Pradip s/o Wamanrao Vanjari,
Aged 51 years, Occupation-Agriculturist,
Member of Adiwasi Vitya Adhikari Society,
Ladgaon, R/o Ladgaon, Post-Ladgaon-441302,
Katol, Tahsil-Katol, District Nagpur(MS)

.... **PETITIONERS.**

// VERSUS //

1. State of Maharashtra,
through its Secretary, Department of
Co-operation, Marketing and Textile,
Mantralaya, Mumbai-400 032.
2. The State Co-operative Election Authority,
Maharashtra State,
having Office at Old Central Building,
Ground Floor, Pune-411 003 (MS)

3. District Co-operative Returning Officer and District Deputy Registrar, Co-operative Societies, Nagpur, having Office at Plot No.8, Sahakar Sadan, Hindustan Colony, Amravati Road, Nagpur, Tah.& District Nagpur.
4. Assistant Registrar Co-operative Societies, Katol, having Office at Katol, Post-Katol, Tahsil Katol, District Nagpur (MS)
5. Agricultural Produce Market Committee (APMC) Katol, through its Secretary, having office at Katol, Post-Katol, Tahsil Katol, District Nagpur(MS)
6. Nitin s/o Keshorao Dehankar, Aged – 50 years, Occupation-Agriculturist, R/o Galpura, Katol,
7. Vinayak s/o Ramrao Mankar, Aged – 63 years, Occupation – Agriculturist, R/o. Laxminagar, Katol,

.... **RESPONDENTS.**

Shri Harish Dangre, Advocate for Petitioners.

Shri A.A.Madiwale, A.G.P. for Respondent Nos.1, 3 and 4.

Shri Rugved Dhore, Advocate for Respondent No.5.

Shri M.P.Khajanchi, Advocate for Respondent Nos.6 and 7.

CORAM : **SUNIL B. SHUKRE AND**
 ANIL S. KILOR, JJ.

DATED : **SEPTEMBER 02, 2021**

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the learned counsel for the parties.

3. The petitioners in this petition came up with a grievance that without holding elections of the Managing Committee of various Agricultural Credit Societies and Multipurpose Co-operative Societies, the terms of which have been expired since long, within the territorial limits of Agricultural Produce Market Committee, Katol (hereinafter referred to as “APMC” for short), the election programme of APMC is being declared and the elections are scheduled to be held on 03/10/2021.

4. It is the case of the petitioners that out of 18 elected members of the APMC, 11 have to be elected by members of the Managing Committee of Agricultural Credit Societies and Multipurpose Co-operative Societies and therefore, the first election of such Agricultural Credit Societies and Multipurpose Co-operative Societies should be completed and thereafter there should be elections to elect the members of the APMC.

5. We have heard the respective counsel for the parties.

6. At the outset, the learned counsel for the respondent Nos. 6 and 7 have raised preliminary objection to the maintainability of the petition on two grounds, namely:

- i) Locus of the petitioners to maintain the present petition and raising a grievance as regards election of APMC; and
- ii) The election process has already begun and 1st September 2021 was the last date of submission of nomination forms, whereas, the elections will be held on 3rd October 2021. Therefore, this Court cannot interfere in the election process.

7. In reply, the learned counsel for the petitioners submits that the petitioners are not at all against the democratic process of holding elections to elect members of APMC and they do not want to interfere into the elections, however, they want that the elections shall be re-scheduled in a way that the elections of Agricultural Credit Societies and Multipurpose Co-operative Societies shall be held first before the elections of APMC.

8. In the light of the preliminary objection, we are of the view that before touching to the merits of the matter, it would be appropriate to decide the preliminary objection first. Accordingly, with

the help of the learned counsel for the parties, we have perused the record and also relevant judgments.

9. After going through the record, following admitted facts have emerged which are as follows:

- i) The petitioners are members of respective Agricultural Credit Societies and Multipurpose Co-operative Societies.
- ii) The names of the petitioners do not find place in the voters' list published by the Election Officer, for the election of APMC.
- iii) None of the Agricultural Credit Societies or Multipurpose Co-operative Societies, a grievance related to whom has been raised in the present petition, has made any request for holding their elections before holding the elections of APMC.
- iv) The APMC has not approached to this Court with similar prayer.
- v) None of the voters of APMC, has filed any petition with prayers as sought in the present petition,
and lastly,
- vi) The Election Programme has already been declared and the last date of submission of nomination was 1st September 2021, whereas, the elections are scheduled to be held on 3rd October 2021.

10. In the backdrop of the above referred admitted facts, we will ponder upon the law in this regard.

11. In the case of *N.P.Ponnuswami v. Returning Officer, Namakal*¹, the Constitution Bench of the Hon'ble Supreme Court of India, has held that any matter which has the effect of vitiating election should be brought up only at the appropriate stage in appropriate manner before a Special Tribunal and should not be brought up at an intermediate stage before any Court.

12. The Division Bench of this Court in the case of *Bhaskar vs. State of Mah.*², has held that being a member is one thing and being a member having clear right to vote in the affairs of the society is another thing and as the petitioner (in the said case) falls on the second count, this Court has held that the petitioner had no *locus-standi* to challenge any part of the election process, either by raising challenges to the votes list before the Returning Officer or by filing the writ petition.

13. In the teeth of the above referred well settled principles of law, we find substance in the preliminary objection raised by the

1 AIR (39) 1952 SC 64

2 2008(4) Mh.L.J. 534

respondent Nos. 6 and 7 on both counts i.e. firstly, the petitioners have no *locus standi* being not voters of the APMC, to maintain this petition and secondly, after the election process has commenced no Court shall interfere in such process.

14. Though the learned counsel for the petitioners states that the petitioners do not want to stall the election process, however, looking to the prayers and pleadings made in the petition, the ultimate effect would be interference in the election process and vitiating the election process, which is not permissible.

15. Having held so, we are of the opinion that the petition is not maintainable on the ground that the petitioners have no *locus standi* and that the election process has already commenced.

16. In the circumstances, we do not want to go into the merits of the matter and, accordingly, we pass the following order:

The writ petition is **dismissed**. No order as to costs.

Rule stands discharged.

(ANIL S. KILOR, J)

(SUNIL B. SHUKRE, J.)