

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

920 WRIT PETITION NO.3118 OF 2022

**RAM SARJERAO DESHMUKH AND OTHERS
VERSUS
THE STATE CO OPERATIVE ELECTION AUTHORITY AND
OTHERS**

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Advocate for Petitioners: Mr. Pawade Nilkanth R
Advocate for Respondent Nos.1&2: Mr. V. H. Dighe

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**CORAM: S. V. GANGAPURWALA &
S. G. DIGE, JJ.**

DATE: 03rd MARCH, 2022

PER COURT:

1. The names of the Petitioners appeared in the provisional voters list. Upon objection, the Returning Officer deleted the names of the Petitioners from the provisional voters list on the ground that the Petitioners did not own 10 Are land as required under the bye-laws of the Society.

2. The learned Counsel for the Petitioners submits that the Returning Officer does not have jurisdiction or authority to remove the names of the Petitioners from the voters list in absence of determination as to whether the Petitioners are agriculturists or not. The power to determine whether the Petitioners are agriculturists or not vests with the authority U/Sec.17 of the

Maharashtra Co-operative Societies Act, 1960. The Returning Officer only on the basis of the online 7/12 extract produced concluded that the Petitioners do not own the land and as such passed an erroneous order.

3. Mr. Dighe, the learned Counsel submits that as per the bye-laws if the member shows his entire land then the membership would be given to him.

4. Yesterday also, today also we asked the learned Counsel for the Petitioners to place on record the documents showing that the Petitioners own 10 Are land. The Petitioners are unable to produce the same before this Court also. The bye-laws requires that a member should possess 10 Are land for continuing as a Member. In absence of the same it would not be possible to enter into the disputed questions of fact in the present Writ Petition. Even otherwise, after the elections are over the Petitioners have remedy available.

5. The Writ Petition accordingly stands disposed of. No costs.

[S. G. DIGE, J.]

[S. V. GANGAPURWALA, J.]

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