

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

WRIT PETITION NO.3423 OF 2022

**ASHABAI AMRITA CHAVAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS**

...
Advocate for Petitioners : Mr. Shahaji B. Ghatol Patil
AGP for Respondents – State : Mr. P. N. Kutti
Advocate for Respondent Nos. 5 to 7 : Mr. S. K. Kadam
Advocate for Respondent No.8 : Mr. U. M. Maske Patil
Advocate for Caveator : Mr. Ravindra J. Nirmal
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 11TH MARCH, 2022

PER COURT :

1. The petitioners are aggrieved by deletion of their names from the final voters' list of respondent No.8 Society, on the objection taken by respondent Nos. 9 to 13. The names of the petitioners appeared in the provisional voters' list of the said society and respondent Nos. 9 to 13 objected to the same on the ground that the petitioners are landless and therefore, their names should be deleted from the final voters' list. Pursuant to the objection, remark was called from respondent No.7 who submitted remark that some of the petitioners were included for doing side/additional business like poultry, milk business etc. The society, therefore, contended that their names should not be deleted.

Respondent No.7 also submitted remarks that on going through record of the respondent No.8 Society it appears that the petitioners have failed to conduct business in terms of by-law No.6.17(क), so also, the Talathi has given certificate that the said 129 members have no land in the area of operation of the said Society. Considering the objection, record and the remarks of respondent No.7, respondent No.6 by the impugned order deleted names of the petitioners from the final voters' list.

2. The learned advocate for petitioners vehemently submitted that the petitioners were not given opportunity of hearing and on that ground alone the impugned order is liable to be quashed and set aside. Further submission is that the objection was not tenable in view of by-law No.4(14). Reliance is also placed on by-law No.6.3. According to him, the powers to decide the question as to the eligibility and membership is to the Registrar under Section 11 of the Maharashtra Cooperative Societies Act, 1960 and respondent No.6 cannot hold the petitioners ineligible while exercising the powers under Rule 8 of Part III of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014.

3. The learned advocate for respondent Nos. 5 to 7 on the other hand supports the impugned order and states that the order is

passed after going through the record submitted before respondent No.6 and no fault can be found with the impugned order. He placed reliance on **Dattatray Genaba Lole and Others Vs. The Divisional Joint Registrar, Cooperative Societies, Pune and Others**, reported in **2022(1) BomCR 471**. The learned advocate appearing for respondent No.8 also supports the impugned order.

4. It is obvious from the objection taken and the remarks of respondent No.7 that the petitioners are landless and they have failed to commence the business as contemplated under the by-laws of respondent No.8 Society. Certificate of the Talathi that the petitioners are landless is on record. Even in the present petition the petitioners have not filed any document to show that they are possessing lands and/or they have commenced business. In that view of the matter, the petitioners' grievance that the impugned order is vitiated as opportunity of hearing was not given to them, cannot be accepted. While considering the objection respondent No.8 Society is heard and its record is considered, so also the certificate of Talathi. In that view of the matter, there is no substance in the grievance raised by the petitioners.

5. This Court is not inclined to entertain the present petition as the same raises several disputed questions of facts. In view of

Dattatray Genaba Lole (supra) since the petitioners have alternate remedy to file election petition, this Court is not inclined to entertain the petition at this stage.

6. Writ petition is, therefore, dismissed with liberty to the petitioners to avail alternate efficacious remedy. All the contentions of the petitioners are kept open.

(NITIN B. SURYAWANSHI, J.)