

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3425 OF 2022

ISMAIL CHANDKHAN PATHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Shahaji B. Ghatol Patil
AGP for Respondents-State : Mr. S. B. Pulkundwar
Advocate for Respondents No.5 to 7 : Mr. S. K. Kadam
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 10-03-2022

PER COURT :-

The objection raised to the inclusion of names of the petitioners is allowed and the names of the petitioners are deleted from the final voters list of respondent no. 8 – society. The petitioners are aggrieved by this order.

2. Learned Advocate for the petitioners vehemently submitted that, the impugned order is passed behind the back of the petitioners and without giving opportunity of hearing to them. Since the election programme is not yet declared, this Court may interfere and set the things right.

3. Mr. S.K. Kadam, learned Advocate for respondents no.5 to 7, on the other hand, submits that, the petitioners are the members of two societies, which is a matter of record and the same is not permissible in law. On the basis of record, respondent no. 6 has passed the impugned order, which cannot be faulted with.

4. From the impugned order it is clear that, the same is passed by taking into consideration the record which shown that the petitioners are members of two societies which is not permissible under the Rules.

5. Learned Advocate for the petitioners, in support of his contention that the writ petition can be entertained placed reliance on the decision in *“Shriram Sahkari Dudh Utpadak Sanstha Maryadit and another Versus State of Maharashtra and others”* 2022(1) Mh.L.J. 656. In that case, the provisional voters list was not finalized and the stage of inviting claims and objections to the provisional list of voters has also not reached. In that view of the matter, the Division Bench of this Court had entertained the petition. In the present case, the voters list is finalized on 03.02.2022, and therefore, this Court is not inclined to entertain the petition.

6. In view of availability of alternate remedy of filing election

petition to the petitioners and in view of the decision of Division Bench in “*Dattatray Genaba Lole V/s The Divisional Joint Registrar Co-operative Societies, Pune and others*” 2022(1) Bom CR 471, this Petition cannot be entertained and the same is dismissed with liberty to the petitioners to avail appropriate remedy as available in law, after the election result is declared.

7. All the contentions of the petitioners are kept open.

(NITIN B. SURYAWANSHI)
JUDGE

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