

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

WRIT PETITION NO.3771 OF 2022

**NANDKISHOR VENKATRAO LOKHANDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioners : Mr. Pralhad D. Bachate
AGP for Respondents/State: Mr. S. B. Pulkundwar
Advocate for Respondent Nos.2 to 4: Mr. S. K. Kadam
Advocate for Respondent No.5: Mr. Abhinay D. Khot

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 22nd March, 2022

PER COURT :

1. The petitioners are aggrieved by non-inclusion of their names in the final voters list of respondent no.5/Society.
2. The provisional voters list was published on 25/02/2022. The claims and objections to the provisional voters list were to be filed between 25/02/2022 to 07/03/2022 and the final voters list is to be published on 23/03/2022.
3. One of the members of respondent no.5/Society lodged a claim for inclusion of the names of petitioners in the borrower members

category. The say of respondent no.5/Society was called. The respondent no.5/Society admitted that, names of the petitioners are inadvertently remained to be included in the provisional voters list. The Loan Officer of respondent no.5/Society addressed a letter to the Assistant Registrar on 14/03/2022 informing that, the petitioners are borrower members of the respondent no.5/Society and they are not defaulter. In spite of this, the respondent no.4 submitted a report that, though 11 members are inadvertently remained to be included in the provisional voters list of respondent no.5/Society and though the Loan Officer of Chudawa Branch of respondent no.5/Society has informed that they are borrower members and they are not defaulter, however since, the receipts of repayment of loan have not been placed on record, therefore it is not possible to ascertain whether the petitioners have actually repaid the loan. Hence, their names should not be included in the provisional voters list.

4. The petitioners have made a specific averment in the present petition that, installment of the loan of the petitioners is paid from the amount received by the petitioners towards the sale of their agricultural produce and the same is directly deposited in the loan account of the petitioners.

5. In view of the fact that, the respondent no.5/Society has admitted that, inadvertently, names of the petitioners are remained to be included in the provisional voters list, and as the Loan Officer has reported that, the petitioners are borrower members and they are not defaulter, the petitioners' names are required to be included in the final voters list. The respondent no.3 has committed an error in rejecting the claim for inclusion of the petitioners' names in the borrower members category.

6. In view of the admitted facts on record, the impugned order passed by respondent no.3 is totally arbitrary and unsustainable in the facts of the present case. In the peculiar facts of the present case, since the voters list is yet not finalized, the respondent no.3 can be directed to include the names of the petitioners in the final voters list. Hence, the following order is passed :

ORDER

- (a) Writ Petition is allowed in terms of prayer clause - 'C'.
- (b) The impugned order dated 17/03/2022 passed by respondent no.3 is hereby quashed and set aside to the extent of the petitioners.

(c) The respondent no.3 is directed to include the names of petitioners in the final voters list to be published tomorrow i.e. on 23/03/2022 in the borrower members category.

7. The learned Advocate for respondent nos.2 to 4 to communicate this order.

8. Copy duly authenticated by the Sheristedar is permitted.

[NITIN B. SURYAWANSHI, J.]

Sameer