

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

WRIT PETITION NO.4667 OF 2022

**GANESH ALIAS UMESH CHANDRAKANT GAIKWAD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH SECRETARY AND OTHERS**

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Advocate for Petitioners : Mr. D. J. Choudhary
AGP for Respondents – State : Mr. S. N. Kendre
Advocate for Respondent Nos. 2 to 4 : Mr. S.K. Kadam
Advocate for Respondent No.5 : Mr. R. L. Kute

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 05th MAY, 2022

PER COURT :

1. Learned advocate for petitioners seeks deletion of petitioner Nos. 4, 6, 7, 8, 9, 13, 14 and 20 from the clause title, as their names appear in the final voters' list. Permission is granted. Deletion be carried out during the course of the day.

2. The petitioners are aggrieved by the order passed by respondent No.3 returning officer by which names of the petitioners are deleted from the final voters' list of respondent No.5 Society. The learned advocate for petitioners contends that respondent No.4 Assistant Registrar, Cooperative Society – Assistant Election Officer and the Secretary of respondent No.5 Society have specifically contended before respondent No.3 that names of the petitioners appear in the register of

respondent No.5 Society and they are old members of respondent No.5 Society, prior to 31-03-2014. By ignoring this, respondent No.3 has deleted names of the petitioners on the erroneous ground that their names do not appear in the final voters' list of 06-04-2015.

3. The documents placed on record indicate that the petitioners are old members of the respondent No.5 Society. It is contended by the learned advocate for petitioners that since they did not deposit the increased share amount, their names were not taken in the final voters' list of 2015 election. The learned advocate appearing for the Society confirms that as per the record of the Society the petitioners are old members and since they failed to deposit increased share amount, their names were not included in the final voters' list of 2015 election. On a query, he admits that, at no point of time notices were issued to the petitioners by respondent No.5 Society for depositing increased share amount. The learned advocate for respondent Nos. 2 to 4 Election Authority fairly states that, if the notices are not issued calling upon the petitioners to pay the increased share amount, they cannot be denied right to vote and participate in the election.

4. Learned advocate for respondent No.6 objector contends that some of the petitioners are also the members of other societies and

no record was placed before the election officer to show that the petitioners are the members of respondent No.5 Society. He supports the impugned order passed by the returning officer.

5. After hearing the rival submissions of the learned advocates appearing for the respective parties and after perusal of the record, this Court is of the considered view that the impugned order passed by the respondent No.3 returning officer cannot be sustained in the facts of the present case. Since the election programme is yet not declared, allowing of this petition would not amount to interference in the election process.

6. In the result, the writ petition is allowed. The impugned order dated 19-04-2022 passed by respondent No.3 District cooperative Election Officer, Beed is quashed and set aside to the extent of petitioners. Respondent No.3 is directed to add names of the petitioners in the final voters' list of respondent No.5 Society.

(NITIN B. SURYAWANSHI, J.)