

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

WRIT PETITION NO.4960 OF 2022

**VISHNU WAMANRAO PAUL AND OTHERS
VERSUS
THE STATE CO-OPERATIVE ELECTION AUTHORITY AND OTHERS**

...
Advocate for Petitioners : Mr. Kamlakar J. Suryawanshi
Advocate for Respondents No.1 to 3 : Mr. V. H. Dighe
Advocate for Respondent No.4 : Mr. L. H. Kawale
Advocate for Respondent Nos.5 : Mr. S. R. Bagal
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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 02nd MAY, 2022

PER COURT :

1. Names of the petitioners are deleted by respondent No.2 from the voters' list of respondent No.4 Society, on the objection taken by respondent No.5, that they are defaulter members.
2. It appears from the record and the impugned order that no certified copies and/or authenticated documents were placed on record to show that the petitioners are the defaulter members. The learned advocate for respondent No.4 Society submits that the petitioners have cleared their arrears on 18-04-2022. In the impugned order also it is mentioned by respondent No.2 that the field officer as well as the Assistant Registrar have stated in their say that no authenticated documents are placed on record to show that the petitioners are

defaulters. In spite of that, by relying on the list submitted by respondent No.5 along with the application the petitioners' names are deleted. *Prima facie* the impugned order does not appear to be just, legal and proper.

3. Issue notice for final disposal to the respondents. Mr. Dighe waives service of notice for respondent Nos. 1 to 3. Mr. L. H. Kawale waives service of notice for respondent No.4. Mr. S. R. Bagal waives service of notice for respondent No.5.

4. The learned advocate for respondent No.5 filed affidavit-in-reply on record. He submitted that original record be called in the matter. It is not necessary in the facts of the present case to call the original record as the petitioners can deposit the arrears before finalisation of the voters' list. Merely because the petitioners have deposited the arrears of dues before the date of scrutiny and/or before finalisation of the voters' list, they do not incur disqualification and they cannot be prevented from exercising their right to vote and from contesting the election.

5. In the light of the above facts, the writ petition deserves to be allowed and the same is hereby allowed in terms of prayer clause 'B'. The impugned order is quashed and set aside. Respondent No.2 is

directed to include names of the petitioners in the final voters' list of respondent No.4 Society.

6. Since the election programme is yet to be declared, this does not amount to interference in the election process.

(NITIN B. SURYAWANSHI, J.)

SVH