

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

98 WRIT PETITION NO.7081 OF 2022

HANUMANT INATHRAO KAUSHALYE
VERSUS
STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

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Advocate for Petitioner : Shri Anil M. Gaikwad
AGP for Respondent Nos.1 & 3 : Shri S.N.Morampalle
Advocate for Respondent No.2 : Shri S. K. Kadam
Advocate for Respondent No.4 : Shri Vaibhav U. Pawar
Advocate for Respondent Nos.5 to 47 : Shri Ramchandra S.Patil

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CORAM : M.G.SEWLIKAR, J.

DATE : 1st August, 2022

PER COURT:-

1. Heard.
2. Shri A.M.Gaikwad, learned counsel for the petitioner submits that the petitioner is challenging the rejection of his application for deleting the names of 43 members from the voters list on the ground that they are not the members of the Society.
3. Learned counsel for the petitioner submits that the Secretary of the Society has forwarded three provisional voters lists. When the Assistant Registrar, issued him notice for forwarding three provisional voters list, the Secretary forwarded

four provisional voters lists. Learned counsel for the petitioner submits that this is a glaring deficiency on account of which the election needs to be stayed. He further submits that the Society does not have membership register. The Returning Officer rejected the application for deleting the names of 43 members without assigning any reason. He submits that when there is no membership register, it cannot be decided as to whether these 43 persons were the members of the Society.

4. Shri S.K.Kadam, learned counsel for respondent No.2 submits that election programme is also declared and tomorrow is the last date of acceptance of nominations.

5. All these objections can be raised during the election petition under Section 91 of the Maharashtra Co-operative Societies Act. In the case of *Dattatray Genaba Lole and Others vs. The Divisional Joint Registrar, Co-operative Societies, Pune Division, Pune and Others* (Writ Petition No.5878 of 2021 decided on 26th November, 2021), the Division Bench of this Court (Coram : S.J.Kathawalla and Milind N.Jadhav, JJ.) has held that “preparation of electoral roll is an intermediate stage and part of the election process”. It is further held that “once election process starts it cannot be stayed”. The remedy of the petitioner

lies in election petition under Section 91 of the Maharashtra Co-operative Societies Act, by raising a dispute.

6. In this view of the matter, since there is efficacious alternate remedy, at this stage, no interference is warranted. Hence, petition is devoid of any substance. It is, therefore, dismissed.

(M.G.SEWLIKAR)
JUDGE

SPT