

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

949 WRIT PETITION NO. 8455 OF 2022

DEVIDAS PUNDLIK KAUSALYE
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

Shri. V. U. Pawar, Advocate for the petitioner
Shri. S. N. Morampalle, AGP for the respondent/State
Shri. S. K. Kadam, Advocate for respondent Nos. 3, 4 and 6
Shri. R. S. Patil, Advocate for respondent No. 7
Shri. A. M. Gaikwad, Advocate for respondent No. 8.

**CORAM : M. G. SEWLIKAR, J.
DATED : 24th AUGUST, 2022**

PER COURT :-

1. Heard.

2. Learned counsel Shri. Pawar for the petitioner submits that respondent No. 8 is a non borrowing member. He, therefore, cannot contest the election from the category of borrowing members. He has placed reliance on the communication issued by Secretary dated 3rd August, 2022 addressed to the Returning Officer mentioning therein that respondent No. 8 is a non borrowing member.

3. Learned counsel Shri. Kadam for respondent Nos. 3, 4 and 6, learned counsel Shri. Patil for respondent No. 7 and learned

counsel Shri. Gaikwad for respondent No. 8 submit that voters lists was finalised on 8th July, 2022 and in that voters lists respondent No. 8 is treated as a borrower member. This list obviously was prepared on the basis of the information furnished by the Secretary.

4. Now the Secretary has furnished another information on 3rd August, 2022 that respondent No. 8 is a non borrower member. Having regard to the contradictory stand taken by the Secretary, it will not be appropriate to stall the elections. All the learned counsel are ad idem that voting is going to take place on 30th August, 2022. In this view of the matter since the election process is at the fag end, I am not inclined to interfere. In view of this, petition is dismissed. The petitioner has alternative remedy of election petition. The petitioner can avail the remedy of election petition after the declaration of results. All the points are kept open. If election petition is preferred, the concerned Court shall decide the said election petition without getting influenced by the observations made in this petition. Petition is, therefore, dismissed. No costs.

[M. G. SEWLIKAR, J.]

ssp