

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

908 WRIT PETITION NO.11020 OF 2022

**SAROJ JITENDRA CHOUDHARI
VERSUS
THE DISTRICT CO OPERATIVE ELECTION AUTHORITY AND THE
DIVISIONAL DEPT REGISTRAR AND ANOTHER**

...
Advocate for Petitioner : Mr. V.D. Hon i/by Mr.Hon Ashwin V.
Advocate for Respondent No. 1 : Mr.V.H.Dighe
...

CORAM : SANDEEP V. MARNE, J.

DATE : 21.10.2022.

PER COURT :

1. By the present petition, the petitioner challenges the order dated 13th October, 2022 passed by the District Co-Operative Election Officer and the Divisional Deputy Registrar, Co-Operative (Diary), thereby rejecting the petitioner's objection for inclusion of name of respondent No. 2 in the voters list.

2. One of the objections for inclusion of name of respondent No. 2 in the voters list is that she is not eligible to become a member of Village Level Committee. It is trite that the Election Officer cannot decide the issue of eligibility of a person to become a member or to hold a post in Village Level Committee and only the Registrar under Section 11 of the Maharashtra Co-Operative Societies Act (for short

the 'Act 1960') is empowered to decide that question. The Election Officer has rightly repelled the said objection.

3. The another objection raised by Mr. Hon. learned Senior Counsel appearing for the petitioner is that the representative of the Village Level Committee must be either the President or Managing Committee Member of that Committee and respondent No. 2 is neither a President or Managing Committee Member. There is no dispute that the resolution has been passed by the Village Level Committee adopting the name of respondent No. 2 to be included in the voters list for election of the federal society. If, the petitioner is aggrieved by for that resolution, she can raise dispute in Election petition. Therefore, the Election Officer has rightly rejected this objection as well as holding that the issue comes under the jurisdiction of Co-Operative Court under Section 91 of the Act, 1960.

4. Mr. Dighe, learned Counsel appearing for respondent No. 1 has relied upon the provisions of Rule 8 of the Maharashtra Co-Operative Societies (Election of Managing Committee Rules 2014 (for short "Rules 2014)" in support of his contention that the scope of inquiry before the Election Officer is summary in nature and that the Election Officer is not supposed to undertake in depth inquiry into various objections not falling in his jurisdiction. His contention

appears to be supported by the provisions of Rule 8 of the Rules 2014. The Election Officer has also held that the inquiry is summary in nature and the objections raised by the petitioner are outside the scope of summary inquiry.

5. In **Dattatraya Genaba Lole & Ors. Vs. Divisional Joint Registrar and Ors** reported in 2022 (1) Bom. C.R. 471 it is held by the Division Bench of this Court that the Writ Petition would not be maintainable challenging any interimmediate stage of election process and that the only remedy available to the aggrieved party is to file the Election Petition under Section 91 of the Act, 1996, read with Rule 78 of the Rules, 2014. Even though, Mr Hon, sought to rely upon paragraph No. 46 of **Dattatraya** (Supra), I do not find that any exceptional circumstance exists in the present case to take departure from the ratio laid down in that judgment. Mr. Dighe, also placed on record a copy of the communication dated 19.10.2022 communicating that the Voters list is already been published on 18th October, 2022 and the election schedule is already declared.

6. The petition is devoid of merits and the same is dismissed without any order as to the costs.

7. Needless to say that the observations made in this order

are prima-facie and shall not come in the way of petitioner seeking an alternate remedy of filing Election Petition as aforesaid.

(SANDEEP V. MARNE)
JUDGE

mahajansb/