

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

904 WRIT PETITION NO.11701 OF 2022

BANKEWAD DIGAMBAR BHOJANNA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS

...

Advocate for Petitioners: Mr. Vaibhav B. Kulkarni

AGP for Respondent/State: Mr. S. P. Tiwari

Advocate for Respondent Nos.2, 3 & 5:

Mr. V. H. Dighe

...

CORAM:	ARUN R. PEDNEKER, J.
---------------	-----------------------------

Reserved on:	25.11.2022
Pronounced on:	12.12.2022

ORDER:

1. By the present writ petition, the petitioners are challenging the order dated 17.10.2022 passed by respondent no.3 – The District Co-operative Election Officer / District Deputy Registrar deleting the names of the petitioners from the final voters list for the election of Seva Sahakari Society Society Ltd. Pimpaldhav, Taluka – Bhokar, District – Nanded (for short "the said society").

2. The election program for respondent no.6 - Seva Sahakari Society Society Ltd. Pimpalghat, was declared, wherein the date for nomination was between 07.11.2022 to 14.11.2022. The date for scrutiny of nomination was 15.11.2022. The date for publication of the final list and grant of symbols was 01.12.2022. The elections are to be held on 13.12.2022 and, thereafter, followed by results immediately.

3. The publication of the provisional voters list was fixed on 26.09.2022 and the date for objection was 26.09.2022 to 06.10.2022. The date of decision on objections was 17.10.2022. The date for publication of final voters list was 21.10.2022.

4. The respondent no.7 had taken objections to the inclusion of 37 names of persons which included the present petitioners in the provisional voters list on the ground the date of membership of the petitioners were not mentioned in the copy of the "I Register" and the same was

not made available for inspection. The objection was also for non holding the shares of the society, and not having receipts of the payment of shares and not mentioning of the date on which the shares have been purchased. Respondent No.3 – The District Co-operative Election Officer, thereafter called for a report and based on the said report having verified the complaint deleted the names of the petitioners from the final voters list by order dated 17.10.2022. The same is challenged by the petitioners for having deleted their names in the final voters list by writ petition dated 19.11.2022.

5. It may be noted that the exercise of writ jurisdiction in election matters is extremely limited and only in the cases of patent illegality, this court could interfere in the inclusion or exclusion of the voters list. The court would also be looking at the stage of the election at which the interference is called, otherwise ordinarily the parties are left to avail the remedy available under the statute.

6. It has been held by this court that preparation of voters list is a part of election process and in the Full Bench judgment of this court in the case of Dattatray Ganaba Lole and others Vs. Divisional Joint Registrar, Co-operative Societies and others, 2021 SCC Online Bom. 4578, it has been held that the writ remedy should not be invoked in respect of any of the intermediate steps in the election and only remedy available to the aggrieved party is to file election dispute under Section 91 of the Maharashtra Co-operative Societies Act, 1960 read with Rule 78 of the 2014 Election Rules. However, in case of patent illegality this court may interfere with the electoral process in cooperative societies by taking other factors into consideration such as stage of election and effect it would have on election process.

7. In the instant case, respondent no.3 – The District Co-operative Election Officer having called for the report and satisfied himself as to the violations about membership of the petitioners

had passed the impugned order. The same may be examined in an appropriate proceedings, since the impugned order *ex facie* cannot be said to be patently illegal. It is also to be noted that the election process is at an advanced stage and the impugned order is also challenged after a period of one (01) month.

8. Taking the totality of the factors into consideration in view of the alternate remedy provided as aforesaid, the parties are relegated to pursue their remedies before the alternate forum if so advised. The Writ Petition is disposed of.

9. The petitioner would be at liberty to assail the grievance raised in the present writ petition in the appropriate proceedings, in accordance with law. In that event, all contentions of parties are kept open.

[ARUN R. PEDNEKER, J.]

marathe