

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1156 OF 2022

Hareshwar Khan Majur Sahkari

Sanstha Ltd thru Authorized

Representative

.. Petitioner

Versus

The State of Maharashtra thru

its Principal Secretary and ors

.. Respondents

...

Mr. Dhairyasheel V. Sutar for the petitioner.

Smt.V.S. Nimbalkar, AGP for State respondent nos.1 and 2.

Mr.Deelip Patil Bankar for respondent nos.3 and 4.

Mr.Anand Patil for respondent no.5.

CORAM: RAVINDRA V. GHUGE, J.

DATED : 9th FEBRUARY, 2022

P.C:-

1 By this petition, the petitioner has put forth prayer
clause 13(a) and (b) as under :-

“(a) This Hon’ble Court be pleased to call for relevant record and proceedings from the office of respondent nos.3 to 4 and after going through the same, quash and set aside order dtd.17.1.2022 passed by respondent no.4 thereby rejecting the objections of the petitioner; for the purpose issue appropriate writ and/or order.

(b) This Hon’ble Court be pleased further direct the respondent no.4 to allow the objections of the petitioner and

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include the name of the representative of the petitioner in the final voter's list for ensuing election of the executive committee of the Respondent no.5 federation.”

2 There is no dispute that the election program has been declared today i.e. 9/2/2022 and the polling date is scheduled on 16/3/2022. The nomination forms are to be filed by the candidates who are eligible members between 9/2/2022 to 15/2/2022.

3 I have considered the extensive submissions of all the learned Advocates representing the respective parties. With their assistance, I have carefully gone through the record placed before me, the affidavits filed as well as the orders delivered by this Court (at Mumbai) on 26/4/2017 in WP No. 5283/2017 filed by Govind Janardhanrao Dhumal & Others Vs. State Co-operative Election Authority, Maharashtra, Pune and ors, the judgment dated 5/2/2015 delivered by me in Writ Petition No.545 of 2015 filed by Shriram s/o Mukundrao Korde Vs. State of Maharashtra and the judgment delivered at Aurangabad in *Hariom Shetkari Samuh Krushi Sahitya Va Dhanya Godam Sahakari Sanstha Vs. The Divisional Joint Registrar, Aurangabad & ors, 2021(5) All MR 128.*

4 The issue in this matter is extremely short. There is no dispute that if a co-operative society loses its registration or is

in liquidation, it cannot be a voter. The petitioner had appeared before respondent no.4 the Co-operative Election Officer and District Deputy Registrar, Kolhapur complaining for his non-inclusion. It had contended in writing that by order dated 7/4/2021 in Appeal No.91/2018, the cancellation of its registration as a Society, has been quashed and set aside. Though it was further contended that by yet another order dated 7/4/2021, passed by the same Divisional Joint Registrar Co-operative Society, Kolhapur in Appeal No.92/2018, the order of liquidation of the petitioner society, was also set aside, the Appeal number and the date of the order was not clearly narrated before respondent no.3, inasmuch as, the order dated 7/4/2021 was also not produced by the petitioner before respondent no.4.

5 I find that the petitioner addressed respondent no.4 in a very casual manner without placing appropriate documents before the authority. Be that as it may, it cannot be overlooked that the order of de-registering the petitioner was set aside by the Divisional Joint Registrar Co-operative Societies in Appeal No.91/2018 and so also, the order of sending the petitioner into liquidation was also set aside by the same authority in Appeal No.92/2018, both the orders being dated 7/4/2021.

6 In view of the above, this Petition is partly allowed. The impugned order of respondent no.4 dated 17/1/2022 is

quashed and set aside and the said proceedings bearing no.I-
dated 6/1/2022 preferred by this petitioner, is restored to the file
of respondent no.4.

7 The petitioner shall appear before respondent no.4 on
10/2/2022 at 3.00 p.m and produce both the orders dated
7/4/2021 in Appeal Nos.91 and 92 of 2018 and if these orders
are a part of the record of the Divisional Joint Registrar Co-
operative Societies, Kolhapur, respondent no.4 would pass an
appropriate order since the last date for filing of nomination
forms is 15/2/2022. So also, respondent no.5 would appear
before respondent no.4 on the same date and time i.e. tomorrow.

8 It is expected that respondent no.4 would pass an
order on 11/02/2022.

RAVINDRA V. GHUGE, J