

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.13462 OF 2022

Shri. Sagar Bhikaji Misal & Ors. ...Petitioners
Versus
District Co-operative Election Officer & Ors. ...Respondents

Mr. Sandeep S. Koregave, for the Petitioners.
Mr. Suhas B. Rohile a/w Mr. Dilip Patil Bankar, for
Respondent No. 1.
Mr. Chetan Patil, for Respondent No. 3.
Smt. V. S. Nimbalkar, AGP for Respondent No. 2-State.

CORAM : MADHAV J. JAMDAR, J.
DATED : 16th NOVEMBER 2022

P.C. :

1. Heard Mr. Sandeep S. Koregave, learned counsel appearing for the Petitioners, Mr. Suhas B. Rohile, learned counsel appearing for Respondent No. 1, Mr. Chetan Patil, learned counsel appearing for Respondent No. 3 and Smt. V. S. Nimbalkar, learned AGP appearing for Respondent No.2.
2. By the impugned order dated 3rd November, 2022, the Respondent No. 1-District Co-operative Election Officer by

exercising power under Rule 11(5) (wrongly mentioned as Rule 11(3) in the impugned order) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (hereinafter referred to as “Election Rules”) have deleted the names of Petitioners from the final voters list.

3. It is the contention of learned counsel appearing for the Petitioners that, once the final voters list is published, no change can be made in the same.

4. The factual position on record shows that, by order dated 4th December, 2019 passed by Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur in Revision Application No.221 of 2019, the same was allowed. By said order it has been directed that Petitioners be granted membership of the Respondent No.3-Society with effect from 24th November, 2017. Accordingly, Petitioners name have been included in final voters list which is published on 12th July, 2022.

5. In the meanwhile, by order dated 3rd October, 2022 passed in Writ Petition No. 11756 of 2022, the said Petition

has been admitted and order dated 4th December, 2019 directing that the Petitioners be granted membership with effect from 24th November, 2017 has been stayed by this Court. In view of said order dated 3rd October, 2022, by the impugned order dated 3rd November, 2022, the Petitioners' names have been deleted from the final voters list.

6. Although the impugned order makes reference to Rule 11(3) of the Election Rules, in fact, Rule 11(5) grants power to make necessary changes in the final voters list. Effect of order dated 3rd October, 2022 passed by this Court is that Petitioners are no more members of the Respondent No.3-Society and, therefore, their names can not remain in the final voters list. Therefore, there is no illegality in the impugned order.

7. Learned counsel appearing for the Petitioners has relied on the judgment reported in (1994) Mh.L.J. 1115 in the matter between ***Ramkishan Bhanudas Shinde & Ors. vs. State of Maharashtra & Ors.*** and the judgment and order dated 13th April, 2022 passed in ***Writ Petition***

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No. 1686 of 2022. The factual position in the said judgments is totally different and in none of the judgments stay to the membership has been granted. It is admitted position that the said stay granted by this Court is in operation till date and, therefore, the Petitioners are not the existing members of the Respondent No.3-Society.

8. Hence no interference is required in the impugned order. Writ Petition is accordingly dismissed with no order as to costs.

[MADHAV J. JAMDAR, J.]