

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.469 OF 2022

Shankar Sopan Patil .. Petitioner

Versus

The State of Maharashtra through its
Secretary Dept. of Co-Operation & Anr. .. Respondents

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Mr.Kishor Patil with Mr.Dilip B. Shinde for the Petitioner.

Mrs.V.S.Nimbalkar, AGP for the State/Respondent No.1.

Mr.M.L.Patil for the Respondent No.3.

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CORAM: RAVINDRA V. GHUGE, J.

DATED : 18th JANUARY, 2022

P.C:-

1. By this petition, the petitioner has put forth prayer clauses (a) (b), (c) and, (d) as under :-

“(a) Be pleased to quash and set aside the impugned order dated 30.12.2021 passed by the Respondent No.2 sanctioning the provisional voter list of Respondent No.3 society;

(b) Pending the hearing and final disposal of present writ petition be pleased to direct the Respondent No.2 and Respondent No.3 not to publish the final voter list of Respondent No.3 Society.

(c) Pending the hearing and final disposal of present writ petition be pleased to direct the Respondent No.2 to hold the

proper inquiry about the members whose names are deleted without any reason and about the members whose names are included without any proper inquiry.

(d) Pending the final hearing and final disposal of the above said writ petition be pleased to direct the Respondent No.2 not to declare the election program of Respondent No.3 Society & stay the further election proceeding of Respondent No.3 Society.”

2. The election program has been declared on 12/01/2022 by the competent authority as follows :-

- a) Candidates desirous of contesting the election are required to file their nomination forms as per the reservation made applicable, between 17/1/2022 till 21/2/2022 (11.00 a.m. to 3.00 p.m.) , both days inclusive.
- b) There would be scrutiny of the nomination forms on 24/1/2022 from 11.00 a.m.
- c) After following the other stages, the election symbols would be allotted on 09/02/2022 at 11.00 a.m.
- d) Actual polling would take place on 22/2/2022 between 8.00 a.m. to 3.00 p.m. and thereafter, the counting of votes and declaration of result would follow.

3. The grievance of the petitioner is that there are 50% of the valid voters, who are actually dead persons. The valid voters as shown by the authorities are 537. 102 of the valid voters do not have 10 R land. More than 100 of the valid voters have not completed two years' of membership so as to

be eligible to participate in the elections as voters and contesting candidates. On these grounds, the petitioner has put forth the prayers.

4. It is well settled that this Court cannot entertain a writ petition for causing interference in an election, more so after the election program has been declared, which is likely to cause an impediment in conducting the elections. The learned Full Bench of this Court has held in the case of *Karmaveer Tulshiram Autade & Ors. Vs. State Election Commission & Ors.*¹, that a writ petition should not be entertained in such matters and an election petition is the statutory remedy available.

5. The contention of the petitioner is that the respondent No.2 be directed to commence an inquiry and segregate the dead persons and those voters, who are barred from becoming valid voters on account of their failure in holding at least 10 R land and/or not completing two years' of membership with the society. I am afraid, such directions cannot be issued at this stage, considering the crystallized position of law. The petitioner can be left at liberty to avail of the statutory remedy of preferring an election petition, as is permissible in law.

6. In view of the above, this petition is dismissed.

(RAVINDRA V. GHUGE, J.)

¹ 2021(1)ABR 766