

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

WRIT PETITION NO. 3478 OF 2022

Maruti Sheku Mote

...Petitioner

Versus

1. State of Maharashtra

2. State Co-operative Election Authority

3. District Co-operative Election Officer,
cum District Deputy Registrar, Co-op.
Societies, Solapur

4. The Assistant Registrar, Co-operative
Societies, South Solapur,

5. Secretary,
Kandalgaon Vividh Karyakari Sahakari
Seva Sanstha Maryadit. Kandalgaon

...Respondents

Mr.Shailendra S. Kanetkar, for the Petitioner.

Mr. Deelip Patil Bankar, Chief Standing Counsel, SCEA
a/w Abhishek Patil, for the Respondent No.2.

Mr. K. S. Thorat, A.G.P., for the Respondent No.4–State.

Mr. Sarang S. Aradhye, for the Respondent No.5.

CORAM : REVATI MOHITE DERE &

MADHAV J. JAMDAR, JJ.

DATED : 25th APRIL 2022

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P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner seeks an appropriate writ/order or direction to the respondent No.3 to forthwith cancel or withdraw the draft voters list dated 28th February 2022 published for the purpose of holding election of Kandalgaon Vividh Karyakari Seva Sahakari Sanstha Maryadit i.e. respondent no.5 at village Kandalgaon, Taluka-Solapur, District-Solapur to the extent of the names of individuals, whose names have been objected to, by the petitioner. Other reliefs have also been sought for in prayer clauses (b) and (c), however, due to efflux of time, the said prayer clauses do not survive.
3. It is not in dispute that during the pendency of this petition, election programme was published in April-2022. According to the election programme, nominations were to be filed on or before 4th April 2022 and the voting is scheduled on 8th May 2022.
4. Mr. Kanetkar, learned counsel for the petitioner submitted that after

the provisional voters list was declared on 25th February 2022, the petitioner filed an application under Section 11 of the Maharashtra Cooperative Societies Act, before the appropriate authority on 5th March 2022. Learned counsel for the petitioner submits that during the pendency of the said application, the election programme was declared on 29th March 2022 and that the voting is scheduled on 8th May 2022. Learned counsel for the petitioner submits that in the present case, some of the members were inducted and made members though they had not completed two years as required under Section 27(3A) of the Maharashtra Cooperative Societies Act. Learned counsel for the petitioner further submitted that some of the members do not even hold land as required under the bye-laws. Learned counsel in support of his submission tendered a compilation of judgments and in particular, relied on ***Dhondiba Parshuram Lakade & Ors. vs. Someshwar Sahakari Sakhar Karkhana Ltd. & Ors.***¹; ***Eknath Ashiram Alekar & Ors. vs. The State of Maharashtra & Ors.***²; ***Shri Someshwar Sahakari Sakhar Karkhana Ltd. Someshwarnagar vs. Shrniwas Patil, Collector, Pune & Ors.***³; ***Karbhari Maruti Agawan & Ors. vs. State of***

1 1979 Mh. L.J. 311

2 1989 SCC Online Bom 159

3 1992 Mh. L.J.883

*Maharashtra & Ors.*⁴; *Rajan Dinkarrao Pharate & Ors. vs. State of Maharashtra.*⁵; *Sanjivraje Vijaysinha Naiknimbalkar & Ors. vs. State of Maharashtra & Ors.*⁶; *Shivaji Marotrao Suryawanshi vs. State of Maharashtra & Ors.*⁷; *Shri Sant Sadguru Janardhan Swami (Moinigri Maharaj) Sahakari Dugdha Utpadak Sanstha & Anr. vs. State of Maharashtra.*⁸; *Ahmednagar Zilla S.D.V. & P. Sanga Ltd. & Anr. vs. State of Maharashtra & Ors.*⁹; *Pundlik vs. State of Maharashtra & Ors.*¹⁰; *Baban s/o Late Bhaurao Taywade vs. State of Maharashtra & Ors.*¹¹; *Shriram s/o Mukundrao Korde vs. State of Maharashtra & Ors.*¹²; *Shri Dinkarrao Bhauso Jadhav & Ors. vs. The State of Maharashtra & Ors.*¹³; *Namdev Shripati Patil & Ors. vs. State of Maharashtra & Ors.*¹⁴; *Dattatray Genaba Gole & Ors. vs. The Divisional Joint Registrar & Ors., and Prataprao Patil vs. The State of Maharashtra & Ors.*¹⁵

4 1994 Mh. L.J. 1527

5 1997 (1) Mh. L.J. 543

6 1997 (1) Mh. L.J. 803

7 2000 (2) Mh. L.J. 306

8 (2001) 8 SCC 509

9 (2004) 1 SCC 133

10 (2005) 7 SCC 181

11 2010 (3) Mh. L.J. 407

12 2015 (4) Mh. L.J. 114

13 WP No.872 of 2015

14 Civil Appeal No.8479 of 2016 arising out of SLP No.15838 of 2015.

15 WP No.400 of 2022

5. He submitted that in all the said cases, the Court had intervened and had stayed the election process.

6. The present petition has been filed against the provisional voters list published by the respondent No.3. Having regard to the order passed by us on 25th April 2022 in Writ Petition No. 3295 of 2022 and the view taken by us, we decline to interfere in the election process in our extraordinary jurisdiction under Article 226 of the Constitution of India, since the challenge is to intermediate stage in the election process. Even otherwise election process has commenced and voting is scheduled on 8th May 2022.

7. It is also pertinent to note, that the petitioner has not impleaded the members whose names are sought to be deleted from the provisional list, as party respondents. This is an additional ground for refusing to entertain the aforesaid petition.

8. We are informed that petitioner's Section 11 application is pending. Hence, as far as the Section 11 application is concerned, we direct the concerned authority to decide the said application filed by the petitioners as

expeditiously as possible and in any event within four months from the date of the receipt of this order.

9. We make it clear that we have not gone into the merits of the Section 11 application filed by the petitioner and as such, all contentions of the parties on merits are kept open.

10. Accordingly, the petition is dismissed with the aforesaid directions. Needless to state, that the petitioner is at liberty to initiate appropriate proceedings in accordance with law.

11. All parties to act on an authenticated copy of this order.

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.