

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

WRIT PETITION NO. 4844 OF 2022

Dnyaneshwar Namdev Galave & Ors. ...Petitioners
Versus
The District Co-operative Election Officer & Ors. ...Respondents

Mr. Ranjeet Patil, for the Petitioners.

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Mr. Deelip Patil Bankar, Chief Standing Counsel, SCEA
a/w Abhishek Patil, for the Respondent No.1 & 4.

Mr. R. P. Kadam, A.G.P., for the Respondent–State.

**CORAM : REVATI MOHITE DERE &
MADHAV J. JAMDAR, JJ.
DATED : 25th APRIL 2022**

P.C. :

1. Heard learned counsel for the parties.
2. At the outset, learned counsel for the petitioners seeks leave to amend, so as to implead the Assistant Registrar, Cooperative Societies, Atpadi, as party respondent No.6. Leave granted. Amendment to be carried out forthwith.

3. By this petition, preferred under Article 226 of the Constitution of India, the petitioners have impugned the order dated 5th April 2022 passed by the Respondent No.1 i.e. District Co-operative Election Officer (District Deputy Registrar), by which the petitioners' objection to the names of 152 persons in the provisional voters list, for the election of the Galavewadi Karyakari Seva Sahkari Society Galavewadi, came to be rejected, resulting in the names of 152 persons being included in the final voters list, which was published on 12th April 2022. The petition also seeks a direction to the respondent No.2 to decide the petitioners' application under Section 11 of the Maharashtra Cooperative Societies Act, as expeditiously as possible and that till the said application is decided, the respondent Nos. 1 and 2 be restrained from conducting election of the respondent No. 3 – Galavewadi Vividh Karyakari Seva Sahakari Society.

4. Learned counsel for the petitioners submits that, as the election of the Members of the Galavewadi Vividh Karyakari Seva Sahakari Society, Galavewadi (hereinafter referred to as the 'said Society') for the term of 2022-2028, was due, in March 2022, the respondent No. 1 published the program for preparation of voters list. As per the program, the cut off date

was 17/03/2022. Accordingly, the provisional voters list was to be published on 17/03/2022; the objection to the same could be taken from 17/03/2022 to 28/03/2022; decision on the objection was to be taken by 07/04/2022 and the final voters list was to be published on 12/04/2022. According to the petitioners, who are members of the said Society, on enquiry they learnt that the names of 152 person were added to the provisional list, though they were not eligible for being members as per the provisions of the MCS Act & Rules. As the names of 152 persons were added, the Petitioners raised an objection before the respondent No. 2- The Taluka Co-operative Election Officer @ The Assistant Registrar, Co-operative Societies, Atpadi. He submits that the respondent No. 2 kept on postponing the hearing on the objection, at the behest of the other side, and that the objection raised by the petitioners is still pending consideration. Learned Counsel for the Petitioners further submits that considering the same, the Petitioners were constrained to approach the respondent No. 1, raised the very objection before the said respondent. Learned counsel submits that the respondent No. 1 issued notice and thereafter, after hearing, decided the objection of petitioners' vide order dated 05/04/2022, which order is impugned in this Petition. Learned counsel submits that the ground

on which the petitioners' objection was rejected, was that the respondent No. 2 had yet not decided the petitioners' objection and not on merits.

5. According to the learned counsel, the impugned order passed by the respondent No. 1 clearly showed non application of mind and that no reasons were afforded on merits. Learned counsel submits that soon thereafter, the respondent No. 1 published the final voters list on 12/04/2022. He submits that the respondent nos. 1 and 2 themselves have not adhered to the election program. Learned counsel for the petitioners submits that though the petitioners had also filed a Section 11 application on 31st January 2022, the same has not been decided till date.

6. Learned counsel for the respondent Nos. 1 and 4 opposed the petition. They questioned, the maintainability of the petition, since the election program had commenced.

7. Perused the papers. The petitioners in the aforesaid petition inter alia challenge the inclusion of 152 names of persons in the provisional voters list. It is not in dispute, that the final list was published on 12th April 2022.

It is also not in dispute, that during the pendency of this petition, election programme was published on 23rd April 2022 and voting for the same has been scheduled on 2nd June 2022.

8. In the case of **Shri. Sant Sadguru Janardhan Swami (Moingiri Maharaj) Sahakari Dugdha Sanstha & Anr. Vs. State of Maharashtra & Ors. vs. State of Maharashtra & Ors.** reported in (2001) 8 SCC 509; **Dattatraya Genaba Lole & Ors. v. Divisional Joint Registrar Co-operative Societies & Ors.** reported in (2021) SCC OnLine Bom 4579: (2022) 1 Bom CR 471, preparation of the electoral roll for election of a specified society, is held to be an intermediate stage in the election process. The process of finalization of voters list is also held to be a part of the election process.

9. Considering that the election process has started, we refuse to entertain the petition, on the said ground, in our extraordinary jurisdiction, under Article 226 of the Constitution of India.

10. Needless to state, that the petitioners are at liberty to file appropriate

proceedings in accordance with law. Since the petitioners have filed an application under Section 11 in January-2022, which is pending before the newly added respondent No.6, we direct the respondent No.6 to decide the said application as expeditiously as possible and in any event, within four months from the date of receipt of this order.

11. The petition is partly allowed to the extent aforesaid and is disposed of in the aforesaid terms.

12. Needless to state, that all parties to co-operate in the expeditious disposal of the Section 11 application pending before the newly added respondent No.6.

13. All concerned to act on an authenticated copy of this order.

MADHAV J. JAMDAR, J.

REVATI MOHITE DERE, J.