

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11794 OF 2022**

Anil Ramchandra Shinde

....Petitioner

V/s.

State of Maharashtra,

Thr. Prin. Secretary, Co-operation

and Ors.

....Respondents

Mr. Manoj Patil i/by. Mr. Ashish Pawar, Advocate for the petitioners in both the petitions.

Mr. S.H. Kankal, AGP for respondent no.1-State.

Mr. Deelip Patil with Ms. Pooja D. Patil, Advocate for respondent no.3 in both petitions.

Mr. Harish R. Pawar, Advocate for respondent no.4 in both petitions.

CORAM : SANDEEP K. SHINDE, J.

TUESDAY, 11TH OCTOBER, 2022.

P.C. :

1. Petitioner is a Member of Shri. Siddhivinayak Prasad Central Consumers Co-operative, Wholesale and Retail Store Limited ("Society" for short). The Maharashtra State Co-operative Consumers Federation Limited-respondent no.2 is Federal Society, within the meaning of Section 2(13) of the Maharashtra Co-operative Societies Act, ("Act" for short). It

being a Federal Society, the names of delegates of its Member-Society were called for, across the State for preparing the provisional voter's list. Accordingly, provisional list of voters was published on 14th June, 2022, in terms of Rule 11(1) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (hereinafter called as "Rules" for short). As the name of Shri Siddhivinayak Prasad Central Consumer Co-operative, Wholesale and Retail Store Limited, was at serial number 19 in the said provisional list, petitioner filed objection under Rule 11(2) of the said Rules, on 24th June, 2022 seeking to remove the name of the said Society from the provisional list. Petitioner's objections were heard by the District Co-operative Election Officer alias Divisional Joint Registrar and after considering the various documents, overruled the objections vide order dated 4th July, 2022. Feeling aggrieved by the said order, this petition is preferred.

2. Heard learned Counsel for the parties.

3. Perused the Affidavit filed on behalf of the District Co-operative Election Officer-respondent no.2.

4. Before adverting to the contentions of the respective parties, it may be stated that, in terms of Section 9(1), Registrar is required to maintain a register of all Societies registered or deemed to be registered under the said Act. Rule 11 of the M.C.S. Rules, specify the Register to be maintained by the Registrar under sub-section (4) of Section 9, shall be in Form-D. In Column no.10 and 11 of the Form-D, particulars of date of winding up of

the Society and the date of Government Gazette notifying winding up, are required to be stated; whereas, in Column no.12, particulars of date of cancellation of registration are required to be stated. In this way, 'D' Register, classifies Societies, which are not functional.

5. Petitioner's case is, the said Society was classified as non-functional. For that, reliance was placed on the list drawn by the Federal Society, under the signature of District Sub-Registrar. List is at page no.52 to 64 of the petition. In this list, said Society was at serial no.99. Learned Counsel for petitioner, thus argued, once name of the said Society is figuring in the list of defunct Societies, how could it qualify as provisional voter. Thus argued, inclusion of the said Society in provisional voters list of the Federal Society, is illegal.

6. It appears, the District Co-operative Election Officer, while overruling the objections principally relied on communication dated 23rd May, 2022 issued by Deputy Registrar, Co-operative Societies, G/S Ward, Mumbai that the said Society is functional and is not classified in the "D" Register. Besides, the said communication, District Co-operative Election Officer, relied on (i) Certificate of Registration of the said Society; (ii) copy of Resolution dated 9th May, 2022 appointing Shri. Vithal Bhosale as delegate of the said Society; and (iii) copy of Resolution and Minute Book appointing Shri. Vithal Bhosale as delegate, verification of minutes of proceedings of the Special General Body Meeting of the said Society dated 9th May, 2022 for including the name of the said Society in the provisional list. In

paragraph-6 of the Affidavit filed on behalf of the District Co-operative Election Officer, it is stated that, Appendix/D-Register maintained by the G/S Ward, was not updated and hence inadvertently name of the said Society appeared in list of defunct Societies at serial no.99. The Affidavit further states that, remarks in the said list, against the name of the said Society, are improper. In other words, the District Co-operative Election Officer found, the said Society is functional and therefore the objection of the petitioner was overruled.

7. In consideration of the facts of the case and in particular letter dated 23rd May, 2022 of Deputy Register, certifying that the said Society is functioning, in my view, the order passed by the District Co-operative Election Officer, overruling the objections of the petitioner and directing to include the name of the said Society in the provisional list of voters of the Federal Society, cannot be faulted with. Therefore, no interference is called for in the impugned order. The petition is dismissed.

NEETA
SHAILESH
SAWANT

Digitally signed by
NEETA SHAILESH
SAWANT

Date: 2022.10.14
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(SANDEEP K. SHINDE, J.)