

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 2752 OF 2022

Shankar Krushnaji Walke and Ors.

Vs.

District Deputy Registrar, Co-operative Societies/District Co-operative Election
Officer, Nagpur and Ors.

WRIT PETITION NO. 2754 OF 2022

Smt. Bebi Sitaramji Rajurkar and Ors.

Vs.

District Deputy Registrar, Co-operative Societies/District Co-operative Election
Officer, Nagpur and Ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Tejas S. Kene, Advocate for petitioners.

Ms. Sangita Jachak, AGP for respondent/State in WP
No.2752/2022.

Mr. K. L. Dharmadhikari, AGP for respondent/State in
WP No. 2754/2022

Mr. T.U. Tathod, Advocate for respondent No. 3.

CORAM : MANISH PITALE J.

DATE : 07.06.2022.

Both these writ petitions were taken up
before the vacation Court due to urgency in the
matter. On 20.05.2022, the Vacation Bench of this
Court issued notices due to urgency in the matter.

2. In these petitions, the petitioners are
seeking quashing and setting aside of orders dated
17.05.2022 passed by the respondent – District

Deputy Registrar, Nagpur, who is also the District Co-operative Election Officer. By the said orders, the aforesaid respondent refused to include the names of the petitioners in both these petitions in the final voters list of their Co-operative Societies. The only ground stated for rejecting their claim was that they had not paid the enhanced share price of Rs.100/- concerning the respondent - Co-operative Societies i.e. Gharatwada Seva Sahakari Sanstha and Sewa Sahakari Sanstha Maryadit.

3. On notices being served upon the aforesaid respondent-Co-operative Societies, although the prayers made in the petitions have been opposed, it has been candidly stated in the replies filed in these writ petitions as follows :

“3. It is submitted that it is the contention of the petitioners that the petitioners were the voters in the election of the Society held in the year 2015. It is further submitted that as per the 97th Amendment to the Constitution of India, the share price of the respondent No. 3 – Society was increased from Rs. 10 to Rs. 100. The respondent No. 3 – Society is in financial crises since 2013 and there were no funds available in the society.

4. It is submitted that it is the contention of the petitioners that while increasing the share price

the provisions of the Section 26 of the Maharashtra Co-operative Societies Act, 1960 were not complied with and no notice was issued to the petitioners demanding the increased amount of shares and no reasonable opportunity was granted to comply with the said demand. It is submitted that the answering respondent No.3 has verified from the record of the respondent No. 3 Society could not find the record of issuance of demand notice to the petitioners in respect of compliance of provisions of the Maharashtra Co-operative Societies Act, 1960. The answering respondent No. 3 has also verified from the record, the copy of the demand notice issued to the members of the respondent No. 3 – Society but the same is not available on the record of the respondent No.3 – Society.”

4. It is evident from the contents of the replies that despite increase in the share price from Rs.10/- to Rs.100/-, at no point in time was any notice issued to the petitioners seeking payment of the enhanced share price.

5. The documents on record also show that the petitioners indeed deposited the enhanced share price on 30.04.2022 itself and the receipts were issued by the respondent – Co-operative Societies. The documents on record further show that this aspect was brought to the notice of respondent No.1

i.e. District Deputy Registrar, by the petitioners on 03.05.2022, when they approached the said respondent for the inclusion of their names in the final voters list.

6. The impugned orders do not show reference to any of these documents. From the replies filed by the respondent – Co-operative Societies, it is evident that no notice was ever issued to the petitioners for depositing the enhanced share price. Therefore, this Court is of the opinion that the petitioners cannot be deprived of their right to vote in the facts and circumstances of the present case.

7. The only aspect that was sought to be highlighted on behalf of the respondent – State authorities was that the election program has been already declared on 01.06.2022 and that inference at this stage may not be warranted.

8. This Court is of the opinion that considering the prayers made in the present writ petitions pertaining to inclusion of the names of the petitioners in the final voters list and the fact that even as per the election program, voting is to take place on 03.07.2022, despite the petitioners having made out a case in their favour, it will travesty of justice if this Court holds its hands merely because

the election program has been declared on 01.06.2022. The process of finalization of voters list being anterior to the initiation of the election process and an aspect which is at a different level, this Court is of the opinion that the petitioners having made out a strong case in their favour, deserve a favourable order in the interest of justice. Accordingly, the writ petitions are allowed.

9. The impugned orders dated 17.05.2022 passed by the respondent No.1 are set aside and it is directed that the names of the petitioners shall be included in the final voters list of their respective Societies.

10. The learned Assistant Government Pleaders appearing in these petitions are requested to inform the concerned authorities about the order passed today in these writ petitions.

JUDGE