

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

WRIT PETITION NO. 4695 OF 2022

Madhav Shriram Bhutekar Vs. District Co.Op. Election Officer and DDR, Washim and
ors

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. K.P.Mahalle, Advocate for petitioner
Mr. N.R.Rode, AGP for Respondent No.1
Mr. A.M.Ghare, Advocate for the respondent No.5

CORAM : AVINASH G. GHAROTE, J.
DATE : 11/08/2022

1] Heard Mr. Mahalle, learned counsel for the petitioner and Mr. Ghare, learned counsel for respondent No.5.

2] In pursuance to the order dated 10.8.2022 Mr. Mahalle, learned counsel for the petitioner has tendered across the bar, two communications dated 10.8.22 purported to have been signed by the members of the Sewa Sahakari Society Degaon, whereby the action of the petitioner in taking an objection to the provisional voters' list and to file the present petition is considered. However, it remains a position that the objection raised by the petitioner to the provisional voters' list has been filed by him in his personal name and not for and on behalf of the society who he claims to represent.

3] Mr. Ghare, learned counsel for respondent No.5 has rightly relied upon **Daman Singh vrs. State of Punjab, (1985) 2 SCC 670** which holds that once a person becomes the member of a co-operative society, he loses his individuality qua the society and has no independent rights except those given to him by the statute and the by-laws and he must act and speak through the society or rather, the society alone can act and speak for him qua rights or duties of the society as a body. This would clearly indicate that even though the society had nominated the petitioner as a person to represent it, in the elections to be held for Respondent No.5, this act by itself does not confer any individual right upon the petitioner, but rather his position always remains that of a representative of a society.

4] It is apparent that the objection has been filed by the petitioner in his individual capacity and not as a representative of the Sewa Sahakari Society, Degaon. That being the position, the very locus of the petitioner comes into question. The petition also has not been filed by the Degaon Sewa Sahakari Society, but by the petitioner claiming himself to be the representative of the said society, whereas in fact on the date of filing of such petition, there was no resolution passed by the society in its Managing Committee authorizing the petitioner in that regard, considering which I am not satisfied regarding the plea of locus of the petitioner to file the

objection as well as present petition. Though the impugned order does not go into this, however, the very locus of the petitioner in filing the petition as on the date of presentation of the petition being absent, the challenge at his behest would not be maintainable and can be considered at the behest of an appropriate society, having raised an appropriate objection in appropriate proceedings. The petition is dismissed. No costs.

JUDGE

Rvjalit