

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

910 WRIT PETITION NO. 290 OF 2023

...
**ABASAHEB VYANKOJI ENGULWAR & OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the petitioners : Mr.S.G.Nandedkar
AGP for the respondent-State : Mr.G.O.Wattamwar
Advocate for the respondent no.2 : Mr.S.K.Kadam
Advocate for the respondent no.4 : Mr.S.A.Nagarsoge
...

CORAM : ARUN R. PEDNEKER, J.
DATE : 10.01.2023

P.C. :

1] Heard the learned counsel for the petitioners
and the learned counsel for the respondents.

2] It is the contention of the learned counsel for
the petitioners that the petitioners became the members of
the respondent no.2 society. They have purchased the plots
in the society, constructed houses and residing permanently
in the society. The society has not added the names of the

petitioners as permanent members but added them only as nominal members. Thereafter, the petitioners had requested the society to make them active members and to add their names in the voters list of the society and the society was not responding to the applications of the petitioners.

3] It is further the contention of the petitioners that they moved applications under Section 22 (2) of the Maharashtra Co-operative Societies Act before the Regional Dy. Commissioner Textile, Aurangabad. By the order dated 28.11.2022, the Regional Dy. Commissioner, Textile, Aurangabad, allowed the applications of the petitioners thereby declared them as members of the society. On 06.12.2022, the respondent no.3 has declared programme for finalization of the voters list of the society. The society failed to add the names of the petitioners in the preliminary voters list of the society. On 15.12.2022, the petitioners requested the society to add their names in the upcoming elections of the year 2022-23 to 2026-27 but the society did not add their names in the preliminary voters list. Thus, the

petitioners filed objections to the preliminary voters list before the respondent no.2 and prayed for inclusion of their names in the final voters list.

4] The Returning Officer, by order dated 21.12.2022, held that the Regional Dy. Commissioner, Textile has allowed the applications of the petitioners thereby declared them as members of the society and directed the society to add the names of the petitioners in the official record of the society, but the Regional Dy. Commissioner, Textile has not clarified that as per Section 27 (A) of the Maharashtra Co-operative Societies Act, from which date the membership of the petitioners has to be considered i.e. from the date of application for membership or from the date of purchase of the plots. Thus, the petitioners do not fulfill the criteria of two years as laid down in Section 27 (3A) of the Maharashtra Co-operative Societies Act.

5] The learned counsel for the petitioners submits that they should be treated to be the members of the society

from the date when they became eligible i.e. from 15.09.2021. The learned counsel further submits that the petitioners be held to be eligible from the date of purchase of the plots.

6] It is to be noted that the petitioners have applied for the membership to the society on 15.09.2021. The Regional Dy. Commissioner Textile, Aurangabad, by order dated 28.11.2022, has declared the petitioners to be the members of the society and in the said order, there is no mention about the date from which the petitioners are to be granted membership. However, there is no date of oral application of the petitioners is mentioned in the record of society. Thus, there is no clarity on which date the petitioners applied orally to the society for membership. The earliest written application is made on 15.09.2021 and the declaration as to the membership can be construed to be from the earliest date i.e. 15.09.2021. Even from the date of application i.e. on 15.09.2021, the petitioners have not completed two years of membership and as such they do

not fulfill the condition required for inclusion of their names in the voters list. Therefore, the order passed by the Election Officer cannot be faulted.

7] In view of the above, the Writ Petition stands dismissed.

[ARUN R. PEDNEKER]
JUDGE

DDC