

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

WRIT PETITION NO.516 OF 2023

**YOGESHWAR PRABHAKAR MARATHE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioners:

Mr. V. D. Hon, Senior Advocate a/w. Mr. A. D.
Sonkawade i/b. Mr. A. V. Hon

AGP for Respondent/State: Mr. K. B. Jadhavar
Advocate for Respondent No.2: Mr. V. H. Dighe
Advocate for Respondents No.4&5: Mr. V. P. Patil
Advocate for Respondent No.4: Mr. V. D. Sapkal,
Senior Advocate i/b. Mr. S. R. Sapkal

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CORAM:	ARUN R. PEDNEKER, J.
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Reserved on:	24.03.2023
Pronounced on:	27.03.2023

JUDGMENT:

1. Heard.

2. Rule. Rule returnable forthwith. With consent of parties, matter is taken up for final hearing.

3. By the present petition, the petitioners are challenging the order dated 02.12.2022 passed by the Returning Officer – Respondent No.2

directing deletion of the petitioners as well as 48 voters to be deleted from the provisional voters list, the total of 87 voters.

4. The election for APMC – Dharangaon were due and accordingly the elections were declared. The present petition is concerned with the traders constituency of the APMC. Accordingly the provisional voters list was published and the petitioners names were included in the said provisional voters list. Respondents No.4 and 5 raised objection to several voters in the traders constituency. In the objections it was contended that the said traders in the provisional voters list were not doing business in the APMC market area. There is no resolution granting them traders license. The names are included only in the traders constituency keeping in mind the ensuing elections. Essentially, the objected members of the provisional voters list do not have any business in the APMC market. The said objections were responded by the petitioners that the petitioners are the licensed traders of the APMC

and the license is evidenced from the receipts given by the market committee and that their license has never been revoked and thus they contended that from the year 2020 they are holding valid license and had been conducting business and therefore their names have to be maintained in the final voters list.

5. The election authority on the objection raised issued notice to the market committee. In the reply filed by the market committee it was pointed out that the petitioners have paid license fees. The APMC gave documents showing fees paid by the objected voters in provisional voters list towards license fees, license renewal fees, market fees, market maintenance fees from the year 2021 to 2022-2023. It also contended by the APMC that traders who have not paid license fees for this period the names of those candidates be deleted. By the impugned order the respondent no.2 directed deletion of the names of total of 87 traders and the reason given for deletion is that from the year 2020 the licensed traders have not done any

business within the market area and that is the only reason for which the petitioners and others are deleted from the provisional voters list.

6. The petitioners in the present writ petition have challenged the order passed by the returning officer contending therein that the Returning Officer's power to scrutinize the claims and objection is summary in nature and is only limited to the provisions in Rule 7 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017. It is further contended that in the event the traders have not done any business then the appropriate remedy is to revoke their license or not grant renewal to the licenses within the provisions of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963. But as long as the petitioners have license for the APMC it is not available to the election authority to delete the names from the provisional voters list.

7. Per contra, the learned counsel appearing for the election authority so also objectors submits that the petitioners are not holding license of the APMC. In any event in the instant case the petitioners have not done any business for last 3 years and thus the respondent authority is justified in deleting the names of the petitioners from the final voters list.

8. As regards Rule 7 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017, the learned counsel contend that the authority is entitled to enquire into the business conducted by the traders for the last 2 years so also they further contend that even if this court holds that the election authority cannot go into the issue of the business undertaken by the petitioners for the last 3 years in the APMC area, this court may not interfere with the impugned order since substantial justice is done by the orders passed by respondent no.2. The writ court may only interfere in the case of a

patent illegality and unless there is grave injustice this court should not interfere.

9. Having considered the rival submissions the issue involved in the present petition is the nature of claims and objections that can be raised under Rule 7 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 and the scope of inquiry of the election authority under the said Rule 7. The Division Bench of this Court in the case of Dhondiba Parshuram Kakade Vs. Someshwar Sahakari Sakhar Karkhana Ltd. and others, 1979 Mh.L.J. 311, examined a similar provision under the Maharashtra Co-operative Societies (Election to Committee) Rules. Rule 7 of the Maharashtra Agricultural Produce market Committee (Election to Committee) Rules, 2017 is similar to the Rule 6 under the Maharashtra Co-operative Societies Act, 1960 and the same is considered by the Divisiona Bench Judgment of this court in the case of Dhondiba (*supra*).

10. The relevant provisions relating to the preparation of the voters list is in part II of the Maharashtra Agricultural Produce market Committee (Election to Committee) Rules, 2017. Rule 6 provides, in case of traders and commission agents who hold license of the APMC as provided in clause (b) of sub-section (1) of Section 13 of the APMC Act to operate as such in the market area shall be included in the provisional voters list. The relevant portion of Rule 6 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 is as under:-

"6. Preparation of voters list

(2)..

In case of Traders and Commission Agents Constituency, the names of traders and commission agents who hold license of the Agricultural Produce market Committee as provided in clause (b) of sub-section (1) of section 13 of the Act to operate as such in the market area shall be included in the provisional voters list.

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(3) Four copies of the authenticated provisional voters lists certified by the concerned Secretary of the market Committee in Form 4 shall be delivered by the concerned Secretary of Market Committee to the concerned District

Election Officer or other officer as may be directed by the State Co-operative Election Authority, one hundred and fifty days before the date of expiry of the terms of Committee in print as well as in digital form.

The District Election Officer shall, within fifteen days from receipt of provisional voters list, invite claims and objections. Copies of provisional voters list shall be displayed on the notice board of the Market Committee and office of the District Election Officer.

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(6) Particulars to be included in the provisional voters list of Market Committees for all the constituencies mentioned in rule 5 shall contain the surname, name, father's or husband's name (in alphabetical order), age and sex with address in Form 4, Form 4(A), Form 4(B), or Form 4(C), as the case may be."

11. Rule 6 further provided that the District Election Officer shall within 15 days from the receipt of the provisional voters list invite claims and objections. Copies of the provisional voters list shall be displayed on the notice board of the market committee and the office of the District Election Officer. It is further provided that the provisional voters list of market committees for all the constituencies shall contain the surname, name, fathers or husbands

name (in alphabetical order), age and sex with address in formats given in the rules. Rule 7 of the Maharashtra Agricultural Produce market Committee (Election to Committee) Rules, 2017 provides for inviting objections and claims and is relevant for our purpose reads as under:-

"7. Claims and objections to the provisional voters list

(1) When the provisional voters list is published for inviting claims and objections, any omission or error in respect of name or address or other particulars in the list may be brought to the notice of the concerned District Election Officer in writing by any person whose name appears in provisional voters list of the Market Committee during office hours, within ten days from the date of publication of the provisional voters list.

(2) Every claim or objection shall be in writing and state the grounds on which the claim is based or the objection is raised, as the case may be, and may accompany with the proof thereof, if any.

(3) The District Election Officer shall, or as directed by the State Co-operative Election Authority, after making such enquiries as deem necessary in this behalf, consider each claim or objection, and give his decision thereon in writing to the persons concerned within ten days from the last date prescribed for receiving the claims and objections. Thereafter final voters list shall be published within the period of fifteen

days from the last date prescribed for receiving the claims and objections. The list finalized by the District Election Officer after deciding all claims and objection shall be final list of voters.

(4) The copies of the final list of voters in Form 5 shall be displayed on the notice board of the District Election Officer and also on the notice board of the Market Committee at least ten days before the declaration of the election programme and in no case later than fifteen days from the finalization of claims and objections."

12. The above Rule 7 of the Maharashtra Agricultural Produce market Committee (Election to Committee) Rules, 2017 is similar to Rule 6 of the Maharashtra Co-operative Societies (Election to Committee) Rules and has been considered by the Division Bench of this court in the case of Dhondiba (*supra*), and this court at paragraphs no.35, 39, 40, 41 and 43 has held as under:-

"35. Rule 6 is as under:

6. Claims and objections to provisional list of voters.-(1) When any provisional list of voters is published for inviting claims and objections, any omission or error in respect of the name or address or other particulars in the list may be brought to the notice, of the Collector by any member of the society concerned who is a voter or any delegate authorised to vote on behalf of such society.

(2) Every person making a claim or raising an objection shall do so by a separate petition, which shall be presented to the Collector on or before the 31st July, during office-hours.

(3) Every claim or objection shall be preferred in writing and state the grounds on which the claim is based or the objection is raised, as the case may be.

(4) The Collector shall, after considering each claim or objection, give his decision thereon in writing to the person concerned before the 10th August and- take steps to correct the provisional list wherever necessary. The list as finalised by the Collector after deciding all claims and objections shall be the final list of voters.

39. From Rule 6(1) emerges the extent of the powers or jurisdiction of the Collector. Under this rule, certain things can be brought to the notice of the Collector. What can be brought to the Collectors notice? And by whom? The answers are to be found in Rule 6(1) itself: An omission or error regarding the name or address or other particulars in the list can be brought to his notice, not by anyone, but only by the member of the society who himself is a voter. This is the plain reading of Rule 6(1). There is no reason to give to this rule a different interpretation or to induct a concept other than what the plain reading thereof reveals. Thus it would be open under this rule to the voter to bring to the notice of the Collector, that the particulars required in the voters list are erroneous inasmuch as they do not tally with the particulars in the Register of members. Thereupon, under this rule, the Collector would be

competent to correct the provisional voters list so as to bring it on a par with the particulars in the Register of members. Hence the identity of the voter is assured. Furthermore, the phraseology in Rule 6(1), "or other particulars in the list", is significant. The nature of the particulars in the voters list is to be found in Rule 5 which is headed, "Particulars to be included in provisional list of voters." What those particulars are, have already been stated above. Thus the words in Rule 6(1), "other particulars in the list", necessarily have reference to Rule 5. Rules 5 and 6 are complementary of each other and as such they must be read in their plain and natural meaning.

40. Thus, under Rule 6(1), all that the Collector is entitled to, and permitted to, do is to ensure the identify of the voter concerned, and if per chance, the identity is not sufficiently established in the provisional voters list to take steps within the ambit of Rule 6(1) to see that it is. There is nothing in Rule 6(1) which empowers the Collector to hold a detailed inquiry, as was done in the instant case, whether a person is qualified to be on the Register of Members, and if not to delete his name from the provisional list of voters u/s 38(2) of the Societies Act, the Register of Members is prima facie evidence of membership. It is not open to the Collector to upset that Register by holding an inquiry under Rule 6(1), which contemplates a very summary inquiry, confined only to the aspects set out in that rule and nothing else.

41. The combined effect of Rules 4, 5 and 6 is that the powers of the Collector under Rule 6, though not without responsibility, are more in their nature, mechanical. He has to act as a guard or watchdog and ensure that the identity of every person whose name appears in the provisional voters list tallies with the person in the Register of Members. The intention behind, and the scope of these three rules is to ensure that every person whose name appears in the Register of Members, should also appear in the voters list, so that no person in the Register of Members is left out from the provisional voters list by reason of some omission or error in respect of the particulars enumerated in Rules 5 and 6.

43. It must also be remembered that the scope of the inquiry by the Collector under Rule 6 is not only limited in nature, but is also of an extremely summary nature. Under Rule 4(2), the voters list must reach the Collector by July 15 and copies of the voters list must be displayed by July 20. Under Rule 6(2), the claimant or objector who makes a petition before the Collector must do so by July 31 and under Rule 6(4) the Collector must give his decision on such claim or objection within ten days, namely by August 10. These four dates, namely July 15, July 20, July 31 and August 10 emphasise the summary nature of the inquiry contemplated by Rule 6. There is nothing in this rule from which it can even remotely be inferred that the Collector is authorised or empowered to hold a detailed inquiry as done in the instant case, call for documents to establish eligibility to membership, examine or cross-examine witnesses or

otherwise dwell on the question whether a member deserves to be included in the Membership Register or not. The fact that the inquiry under Rule 6, is of a summary nature is also reflected from the fact that against his decision, no appeal has been provided. This emphasises that the enquiry, such as it is, under Rule 6 is not only a very summary inquiry, but also mechanical (though not without responsibility), limited only to the aspects set out in the rule itself and no more."

13. This court in the case of Dhondiba (*supra*), has held that the power of the election authority is limited to what is prescribed in Rule 6 of the Election to Cooperative Society Rules. It is the job of the election authority to only verify the name, address or other particulars in the voters in provisional voters list is same as in the membership register. Under the Maharashtra Co-operative Societies Act, 1960 the Collector (Election Authority) verifies the provisional voters list with the list of register maintained.

14. The Division Bench of this court in the case of Balasaheb Bhikaji Gadhave and others Vs. S. Ganesh Sahakari Sakahar Karkhana Limited

Ganeshnagar, Kopargaon, 1975 SCC OnLine Bom 260,

while interpreting Rule 6 and bye-law no.12 of the society has held that the Collector under Rule 6 can go into the issue of whether the members had lost right to vote and that he is a defaulter member and has lost the right to vote and such an inquiry is contemplated within Rule 6. This court in the case of Balasheb Gadhave (supra) has dealt with scope of Rule 6 as under:-

"18...The objection that was raised in the cases before the previous Division Bench was that for certain reasons certain members were not entitled to be members of the society and as a corollary to their being not entitled to remain as members of the society, they could not be shown in the provisional list of voters and if the society had shown them on the list of members and, therefore, in the provisional list of voters, the Collector should go into the question whether those persons were entitled to be shown as members on the register of members of the society. The main challenge to the eligibility of the persons to be voters was thus on the ground that they were not entitled to be members of the society. The Division Bench observed that this enquiry was beyond the purview of Rule 6.

19...Their contention was that even though respondents Nos. 3 to 47 were members of the society, in view of bye-laws No. 12, they had lost their right of voting and, therefore, the Collector

should delete their names from the final list of voters though they continued to be members. The previous Division Bench did not consider the scope of Rule 6 in this aspect of the matter. It considered it only from the point of view whether, in the course of a summary enquiry under Rule 6, the Collector could go into a detailed enquiry whether certain persons were not entitled to become or remain members of the society and consequently, they could not be included in the list of voters. In our view, an objection of the present kind by the petitioners had to be gone into even in the summary enquiry contemplated by Rule 6.

20. To interpret the rule contrary to the view we have expressed would mean that persons who had no right of vote will exercise their right of vote and this mischief will remain unrectified till the end. Bye-laws No. 12 clearly shows that a defaulter member cannot exercise any right of members which naturally includes the right to vote. If the Collector does not delete the names of the members from the final list of voters, who have lost the right of vote under bye-laws No. 12. those persons will vote at the election. It is true that under the Rule 81, a question can be raised in an election petition before the Commissioner that certain persons who had no right of vote had voted at the election and the aggrieved person may be able to establish that certain persons who had no right of vote had voted at the election. But that alone may not possibly give any relief to the aggrieved person...."

15. This court in the case of Rajan Dinkarrao Pharate and others Vs. State of Maharashtra and others, 1997 (1) Mh.L.J. 543, considered the amended Rule 6, where the sub clauses 5, 6 and 7 were added to Rule 6 after the Dhondiba's Judgment in the year 1980 and Section 26 of the Maharashtra Cooperative Societies Act and held that the Collector in view of the amended rules can go into the issue if the member has become disentitled to vote by virtue of any subsequent reasons or has become disentitled to vote and such question can be inquired into by virtue of the amended Rule 6. This court at para 13, 14, 17 and 18 has held as under:-

"13. It would not be out of place to mention here that sub-rules (5), (6) and (7), of Rule 6 were added in Rule 6 for the first time on 10th January, 1980. Rule 6 as was existing prior to 10-1-1980 came up for consideration before this Court in Dhondibas case (supra). The Division Bench of this Court, in Dhondibas case, in unequivocal terms held that not only that Rule 6 contemplates enquiry of a summary nature but also mechanical (though not without responsibility) and limited only to the effects set-out in the Rule itself and no more. The Division Bench emphasised that under Rule 6 the Collector has no

authority, power or jurisdiction to dismember a person whose name appears in register of membership and which register is prima facie evidence of membership under section 38(2) of the Co-operative Societies Act.

14. It will not be out of place to mention here that in another judgment (Balasaheb Gadhave v. Shree Ganesh Sahakari Sakhar Karkhana Ltd.)⁴, Special Appeal No. 2550 of 1973, Division Bench of this Court considered Dhondibas case (cited supra), and, the question whether Collector has no power under Rule 6 of Rules of 1971 to delete the names of members who are defaulters and who have lost their right to vote in view of byelaw No. 12 of the said society. The Division Bench comprising of Vimadalal and Sapre, JJ. observed that in Dhondibas case the main challenge to the eligibility of the persons to be voters was on the ground that they were not entitled to be the members of the society and the Division Bench observed in that case that this enquiry was beyond purview of Rule 6 but in Balasaheb Gadhave's case before them the question was whether members of the society whose names were shown in the register of membership maintained by the society, have lost their right of voting and can Collector delete their names from the final list of voters though they continued to be members and it was held by them that in view of byelaw 12 of the concerned society which clearly shows that defaulter member cannot exercise any right of member, the Collector can go into the question even in summary enquiry contemplated by Rule 6.

17...it would be thus seen that while making amendment in Rule 6, by inserting sub-rules (5), (6) and (7) the Government ensured that a person who is member is not deprived of his valuable right to vote if his name has been excluded in preparation of final list under sub-rule (4) of Rule 6 because the enquiry under 6(1) is mechanical, narrow, limited and of summary nature. The amendment by way of sub-rules (5), (6) and (7) provides an opportunity further to such member to make an application before the Collector that he has been wrongly excluded from the final list of voters and his name should be included. The question before me is the scope of enquiry on an application made under sub-rule (5) and whether such enquiry contemplates going into the question of default under section 26 of the Act of 1960.

18...The purpose of the amendment by adding sub-rules (5), (6) and (7) is to ensure that a person who is member of the society is not excluded in the final list of voters if for any reason while preparing final list of voters under sub-rule (4) of Rule 6 his name has been excluded. The amended provisions of sub-rules (5), (6) and (7), therefore, make doubly sure that no member of a cooperative specified society is excluded from the final list of voters. However, if under the statutory provisions of the Act of 1960 or Rules framed thereunder or under byelaws the said member has become disentitled to vote, such question cannot be excluded from the enquiry under sub-rules (5), (6) and (7) of the Rules...

16. In case of Dhondiba (supra), this court at para 30 was considering the question as under:-

"30. This brings us to the second contention of Mr. Singhvi, namely that the Collector had no jurisdiction to decide the question of the validity of membership in exercise of the powers conferred on him by Rule 6 and thereby virtually to alter or amend the Register of Members of the respondent No.1-Karkhana."

The answer given to above question in Dhondiba's case is at paragraphs no.39, 40 and 41. In Dhondiba's case it has been held that the Collector under Rule 6(1) is not empowered to decide whether a person is qualified to be on the Register of Members, and if not to delete his name from the provisional list of voters. It is further held that every person whose name appears in the provisional voters list must tally with the name in the Register of Members. The intention behind, and the scope of these three rules i.e. 4, 5 and 6 of the Maharashtra Cooperative Societies (Election to Committee) Rules is to ensure that every person whose name appears in the Register of Members, should also appear in the voters list, so that no

person in the Register of Members is left out from the provisional voters list by reason of some omission or error in respect of the particulars enumerated in Rules 5 and 6.

17. In case of **Dhondiba** (supra), this court held that particulars of the members in the provisional voters list has to be in conformity with the particulars in the membership Register. All members shown in the membership register maintained under Section 38 of the Maharashtra Cooperative Societies Act is the prima-facie proof of membership. Thus, the enquiry under Rule 6 as interpreted in Dhondiba's case is limited to comparing the details in the provisional voters list to the membership register. However, in case of APMC there is no statutory register of licensees is maintained. There is no statutory list of traders to be compared with. Sub - rule 8 of Rule 6 of the Agricultural Produce Marketing (Development and Regulation) Rules, 1967 provides for a register to be maintained of the traders, brokers as may be directed by the Director.

However, there is no deeming provision as in Section 38 of the Maharashtra Cooperative Societies Act that the members in the register maintained under above Sub-rule 8 are the valid license holder of the APMC. The relevant rules of the Agricultural Produce Marketing (Development and Regulation) Rules, 1967 are quoted below:-

“(5A) An application for renewal of a licence shall be made before [28th or 29th February, as the case may be, every year]. It shall be competent for the Market Committee to accept an application made after the aforesaid date on payment of a late fee at the rate of 10 per cent of the licence fee per day of default.

(6) The licences shall be valid for the persons in whose names they are issued and shall not be transferable. Licences shall also be liable for suspension or cancellation for a breach of these rules; and the licensee shall be informed of such suspension or cancellation and the reason therefor.

(7) Every licence so granted or renewed shall be in force for a market year or for three market years, as the case may be, on payment of proportionate fees;

Provided that in the case of grant or renewal of a licence for three years, such grant or renewal shall be subject to the production by the licensee of a statement showing the business transacted and the amount of dues paid or payable to the Market Committee, in the last

preceding market year and verification thereof by the market committee.

(8) Each Market Committee shall maintain a register in such form as the Director by general special order, may specify in this behalf containing names of all commission agents, traders and brokers licenced under these rules."

18. Thus it would be seen from the above two Judgments of Dhondiba (supra) and Balasaheb (supra) that the election authority under Rule 6 of the Maharashtra Cooperative Societies (Election to Committee) Rules can inquire into the disqualification incurred by a member under bye-laws of the society which prevents the member from voting or any other disqualification under the rules that the member incurs from voting. Dhondiba's case this court has categorically held that the returning officer cannot decide the issue of the validity of membership and has to limit it's inquiry only to the aspects mentioned in Rule 6(1).

19. Thus applying the law laid down in Dhondiba's case and Balasaheb's case, the election officer cannot go into the validity of grant of

license or renewal of license. However, in absence of a statutory register as available in case of Section 38 of the Maharashtra Cooperative Societies Act, the election authority, has to verify the date of license and renewals of license and whether the license is for the period of 2 years as contemplated under Section 13(1)(b) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 read with Rule 6 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017.

20. Thus on the combined reading of Dhondiba's Judgment and Balasaheb Gadhave's Judgment, the words "omission or error in name" used in Rule 7 of the the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 would mean if a trader has a license for 2 years and his name is not shown in the provisional list, and the same can be enquired by election authority under Rule 7(3) of the Maharashtra Agricultural Produce Market Committee

(Election to Committee) Rules 2017. However, validity of grant of license or renewal cannot be inquired by the election officer.

21. Section 7 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 has also a deeming provision for grant and renewal of traders license. Thus the election authority will have to verify the trader license and in absence of formal trade license, in view of the deeming provision may have to verify the license fees paid and accepted and license renewal fees paid and accepted by APMC for over two years, in the event of deemed grant of traders license. Section 7 (1) and proviso reads as under:-

"7. Grant of licences

(1) Subject to rules made in that behalf, a Market Committee may, after making such inquiries as it deems fit, grant or renew a licence for the use of any place in the market area for marketing of the agricultural produce or for operation therein as a trader, commission agent, broker, processor, weighman, measurer, surveyor, warehousemen or in any other capacity in relation to the marketing of agricultural produce, or may, after recording its reasons in writing thereof, refuse to grant or renew any such licence:

Provided that, if the Market Committee fails to grant or renew or refuse a licence within a period of sixty days from the date of receipt of the application therefore, the licence shall be deemed to have been granted or renewed as the case may be."

22. Having analysed the law on the subject coming to the facts of the instant case, the provisional voters list is based on the licenses held by the traders for more than two years. It is not permissible for the election authority while deciding objection under Rule 7 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 to travel beyond the license and inquire into the issue whether licensees have done business for the previous two years. Once there is a license granted, it is not permissible for the election authority under Rule 7 to travel beyond the license and inquire into whether the traders have actually conducted any business in the market area for last 2 years. Under Rule 7 the election authority can examine summarily if there is addition or omission of names in the provisional voters list by conducting

enquiry under Rule 7(3) and determine whether a person is holding the traders license for last two years, in terms of Section 13(1)(b) of the Agricultural Produce Marketing (Development and Regulation) Act, 1963 read with Rule 6 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017. However, the election officer cannot go into the validity of the grant or refusal of the license or renewal of license or enquire into whether the trader has done actual business of trading in the market for the last 2 years before the publication of the provisional voters list. The election authority can also verify the other particulars of the voter, under Rule 7.

23. The respondent no.2 by the impugned order has directed deletion of 87 names from the provisional voters list only on account of there being no proof of the said licensees having done any business in the APMC market area for last two years. In view of the same, the order passed by Respondent No.2 is set aside for being beyond the

scope of enquiry under Rule 7 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017. This being an APMC election matter, the law on interference by the High Court in the election matters is well settled and this court would interfere in the election process only in cases of patent illegality and this court will also take into consideration the effect of interference on the election process. This court would not ordinarily destabilize the election process and it would only interfere where the interference would aid the election process. The election process of APMC is at the stage of filing nomination and would commence from 27.03.2023. The order passed by the election authority for the reasons stated in this Judgment is patently illegal. Interference at this stage will not materially effect to election process. As such, it is directed that the order passed by the respondent no.2 is set aside and correspondingly the 87 names deleted by the impugned order of the respondent no.2 are directed to be restored as the

final voters and final list of the APMC traders constituency be prepared accordingly.

24. Rule is made absolute in above terms.

25. In view of the same, the writ petition is allowed and disposed of.

[ARUN R. PEDNEKER, J.]

marathe