

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.2354 OF 2023
IN
WRIT PETITION NO.9167 OF 2021**

Balasaheb Anand Patil
and anotherApplicants
In the matter between
Balasaheb Anand Patil
and anotherPetitioners
Versus
Joint Registrar, Co-operative Societies(Milk)
and others Respondents

Mr. S.S. Patwardhan, Advocate i/b. Chetan G. Patil, for the Applicants.

Smt. V.S. Nimbalkar, AGP, for the Respondent Nos.1 to 3-State.

Mr. N.V. Bandiwadekar, Senior Advocate a/w. Abhijit Adagule, for Respondent No.4.

Mr. Shrikrishna Ganbavale, Advocate a/w. Harvinder Kaur R. i/b. Sangramsinh Yadav, for the Respondent Nos.5 to 46.

CORAM : SARANG V. KOTWAL, J.

DATE : 17th MARCH, 2023

P.C. :

1. Heard learned counsel for the parties.
2. This application is filed with the following prayers :

- “A) That this Hon’ble Court be pleased to direct respondent no.3 herein as also election Returning Officer appointed by him to keep the votes casted by respondent nos.5 to 46 in the ensuing election for the Managing Committee of respondent no.4 society scheduled on 19th March 2023, in a separate ballot box and make the counting of their votes subject to the outcome of the present writ petition.
- B) That this Hon’ble Court be pleased to direct respondent no.3 herein as also election Returning Officer appointed by him to not declare the result of the election qua respondent 37 and 43 till the disposal of the writ petition.
- C) Pending hearing and final disposal of this interim application this Hon’ble Court be pleased to stay all further steps in the election programme which is hereto annexed and marked as Exhibit B.”

3. Learned counsel for the Applicants invited my attention to the order dated 14.2.2023 passed by a Division Bench of this Court in Review Petition No.55/2021 in Writ Petition No.804/2021. He submitted that inspite of that order, the prayers made in this application can be passed. I do not agree with the submissions of the learned counsel for the Applicants. The relevant paragraph in the order passed by the Division Bench is paragraph-10 which reads thus :

“10. In our view, even if the election would not have been proceeded on the basis of the original election programme and the issue of membership would have remained pending as sought to be canvassed by the Review Petitioner, remedy of the Petitioner would be to file an election petition. Be that as it may, in our view, even if the Petitioner succeeds in the writ petition filed by the Review Petitioner, impugning the order passed by the Revision Authority on the application/complaint filed by the Review Petitioner, on the premise that some of the members were disqualified to be the members of the Petitioner Society, the effect of such order in favour of the Review Petitioner, would not affect the election programme already issued by the State Government.”

4. In my opinion, the reliefs claimed in this application will be directly against the directions given and observations made by the Division Bench in the said paragraph. Therefore, the prayers in the application cannot be granted. The application is rejected.

(SARANG V. KOTWAL, J.)