

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6791 OF 2022

Kailas Murlidhar Jagtap

... Petitioner

Versus

State of Maharashtra

Through the Principal Secretary of

Co-operation Dept., Mantralaya

Mumbai and Ors.

... Respondents

.....

Mr.Manoj A. Patil a/w. Mr.Akash M. Morudkar i/b. Mr.Ashish Pawar, Advocate for the Petitioner.

Mr.M.M. Pable, AGP for Respondent – State.

Mr.Deelip Patil Bankar, Chief Standing Counsel SCEA, Advocate for Respondent Nos.2 and 3.

.....

**CORAM : NITIN JAMDAR AND
MANJUSHA DESHPANDE, JJ.**

DATE : 21 DECEMBER 2023.

P.C. :

By this Petition, the Petitioner had initially sought to stay the election to Respondent No.5–Rajewadi Vivid Karyakari Sahakari Sanstha Mydt. Rajewadi, Sangli, Society. Petition was filed on 9 June 2022. The Petition came up on Board on 9 June 2022 when while issuing notice, it was stated that the election for filling up the vacancies will be subject to the outcome of the decision of the Court. Thereafter the Petition has remained pending and has come in due course. The Petitioner has carried out amendment and has

challenged the process for filling up the causal vacancies of Respondent No.5–Society. As stated earlier, the process for filling up vacancies to election process is now completed.

2 This Court had not stayed the election process and though had stated that the result will be subject to the outcome of the Petition, does not mean that the basic position of law that for challenge to the election result there is a substantive remedy available under the Maharashtra Co-operative Societies Act, 1960 is deviated from. In the order dated 22 April 2022, which was an order passed while issuing notice at the time of production of the Petition, there is no such specific finding that after the elections are held, the Petitioners need not avail of the statutory remedy and that inspite of the statutory remedy this Court will consider the challenge.

3 Since a substantive remedy of approaching the Court under the Maharashtra Co-operative Socialites Act, 1960 is available to the Petitioner, we are not inclined to keep the Petition pending. The contention of the Petitioner is that in view of the obvious factual position and statutory bar the concerned election was vitiated, can also be urged before the forum available under the Act.

4 That being the position, keeping the contentions of all parties open in case the Petitioner approaches the forum under the Act, we dispose of the Writ Petition.

5 In case the issue of limitation arises, we have no doubt that the concerned Court will keep in mind the pendency of this Petition in the above circumstances.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)