

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.4163 OF 2023
IN
WRIT PETITION NO.1506 OF 2023**

Ganesh Madhukar Kahandal & OrsApplicants

In the matter of

Uttam Ganpat Thorat & Ors. ...Petitioners

Vs.

State of Maharashtra & Ors.Respondents

**WITH
INTERIM APPLICATION NO.4166 OF 2023
IN
WRIT PETITION NO.1350 OF 2023**

Sukdev Lahanu Bhawale & OrsApplicants

In the matter of

Uttam Ganpat Thorat & Ors. ...Petitioners

Vs.

State of Maharashtra & Ors.Respondents

**WITH
INTERIM APPLICATION NO.4169 OF 2023
IN
WRIT PETITION NO.1347 OF 2023**

Khanderao Ramchandra Kasabe & OrsApplicants

In the matter of

Uttam Ganpat Thorat & Ors. ...Petitioners

Vs.

State of Maharashtra & Ors.Respondents

**WITH
INTERIM APPLICATION NO.4168 OF 2023
IN
WRIT PETITION NO.1356 OF 2023**

Shivaji Anandrao Pingle & OrsApplicants

In the matter of

Uttam Ganpat Thorat & Ors.

...Petitioners

Vs.

State of Maharashtra & Ors.

....Respondents

**WITH
INTERIM APPLICATION NO.4167 OF 2023
IN
WRIT PETITION NO.1357 OF 2023**

Hiraman Gopala Dheringe & Ors

....Applicants

In the matter of

Uttam Ganpat Thorat & Ors.

...Petitioners

Vs.

State of Maharashtra & Ors.

....Respondents

**WITH
INTERIM APPLICATION NO.4170 OF 2023
IN
WRIT PETITION NO.1348 OF 2023**

Gokul Anandrao Pingle & Ors

....Applicants

In the matter of

Uttam Ganpat Thorat & Ors.

...Petitioners

Vs.

State of Maharashtra & Ors.

....Respondents

**WITH
INTERIM APPLICATION NO.4165 OF 2023
IN
WRIT PETITION NO.1349 OF 2023**

Dilip Shankar Thete & Ors

....Applicants

In the matter of

Uttam Ganpat Thorat & Ors.

...Petitioners

Vs.

State of Maharashtra & Ors.

....Respondents

Mr. Pramod Joshi for Applicants in all Interim Applications.

Mr. Surel Shah a/w Mr. Patwardhan i/b Mr. Sachin Gite for original Petitioners.

Mr. A. I. Patel, Addl. G.P a/w Mr. K. S. Thorat, AGP for Respondent-State.

CORAM : K.R. SHRIRAM &

RAJESH S. PATIL JJ

DATED : 27th APRIL 2023

P.C. :

1 On 17th April 2023, the following order came to be passed:

"1 At the outset, Mr. Shah seeks leave of the Court to delete respondent nos.6 to 18.

2 Leave granted. Amendment to be carried out during the course of today. Re-verification dispensed with.

3 Petitioners are impugning an order dated 23rd June 2022 passed by the Co-operative Minister in revision applications mentioned hereinbelow :

(1) WRIT PETITION NO.1347 OF 2023 – REVISION APPLICATION NO.608 OF 2021

(2) WRIT PETITION NO.1348 OF 2023 – REVISION APPLICATION NO.611 OF 2021

(3) WRIT PETITION NO.1349 OF 2023 – REVISION APPLICATION NO.606 OF 2021

(4) WRIT PETITION NO.1350 OF 2023 – REVISION APPLICATION NO.610 OF 2021

(5) WRIT PETITION NO.1356 OF 2023 – REVISION APPLICATION NO.605 OF 2021

(6) WRIT PETITION NO.1357 OF 2023 – REVISION APPLICATION NO.607 OF 2021

(7) WRIT PETITION NO.1506 OF 2023 – REVISION APPLICATION NO.609 OF 2021

(8) WRIT PETITION NO.3857 OF 2023 – REVISION APPLICATION NO.608 OF 2021

4 By the impugned order, the Co-operative Minister has changed the classification of respondent no.5 society. Respondent no.5 was registered on 11th June 2021 as service society and sub-classified as service resource society as per Section 12(1) read with Rule 10(1) of the Maharashtra Co-operative Societies Rules, 1961. According to petitioners, if the classification or sub-classification has to be changed, there are certain mandatory requirements that has to be followed. Those mandatory requirements are as per the Government Resolution dated 23rd September 2013 read with Corrigendum dated 14th

February 2017. By way of an amendment, which was permitted by this Court on 6th April 2023, petitioners have set out in the petition the criteria prescribed in the Government Resolution and the Corrigendum. Ofcourse before this amendment was carried out, the State had filed an affidavit justifying the decision taken by the Minister. After the amendment, when petitioners set out the rigours of the mandate of the Government Resolution that has to be mandatorily followed, the State has filed another affidavit of one Fayaj Mulani, Deputy Registrar, Co-operative Societies, Nashik affirmed on 6th April 2023, in which paragraphs 4 and 5 read as under :

4. With reference to L1 of the petition, I have to place on record that the Government of Maharashtra had issued a Government Resolution dated 23.9.2013 and Corrigendum dated 14.2.2017 for registration of an Agricultural Credit Society and prescribed certain mandatory requirement. Hereto annexed and marked as Exhibit 1 Colly. are the copies of Government Resolution dated 23.9.2013 and Corrigendum dated 14.2.2017.

5. I say that stipulation mentioned in Government Resolution dated 23.9.2013 and Corrigendum dated 14.2.2017 are mandatory in nature. However, the Respondent No.5 Society does not comply with the said stipulations. It is also true that the Society has not got any approval from the committee established as per Clause 5 of the Govt. Resolution dated 23.9.2013.

5 In the circumstances, the impugned order dated 23rd June 2022 passed by the Co-operative Minister in revision applications mentioned in paragraph 3 above are quashed and set aside. Any consequential actions taken in view of the impugned order dated 23rd June 2022 also will have to be struck down and are hereby struck down.

6 All petitions disposed accordingly.”

2 Respondent nos.6 to 18, whose names were deleted moved the Apex Court and the Apex Court was pleased to pass the following order:

“UPON being mentioned the Court made the following

O R D E R

1 On mentioning, the matter is taken on Board.

2 This batch of Special Leave Petitions has been mentioned for urgent orders.

3 Counsel appearing on behalf of the petitioners submit that:

(i) Prayer clause (b) of the writ petition which was filed before the High Court (Annexure P-7) specifically sought the deletion of the names of respondent Nos 6 to 18 (the petitioners in these proceedings) from the final voters list published on 7 December 2022;

(ii) The High Court by its impugned order dated 17 April 2023 allowed the deletion of the petitioners who were arrayed as respondent Nos 6 to 18 from the parties to the writ petition;

(iii) The consequence of the order of the High Court which sets aside the order dated 23 June 2022 passed by the Minister for Co-operation is that the names of all the petitioners would stand deleted from the final voters list; and

(iv) As a consequence, though the petitioners are directly affected by the impugned order of the High Court, they were not furnished with an opportunity of being heard and, as a matter of fact, were deleted from the array of parties to the writ petition.

4 At this stage, we are not inquiring into the tenability of the above grievance of the petitioners. However, having regard to the nature of the grievance, which is that an order has been passed by the High Court which has the effect of directly impinging on their rights without furnishing to the petitioners an opportunity of being heard, we are of the view that it would be appropriate to allow the petitioners to move the High Court with this grievance.

5 The petitioners are accordingly permitted to move the High Court on 24 April 2023 with appropriate applications.

6 We request the High Court to take up the applications so as to determine whether there is any merit in the grievance which has been urged by the petitioners. Since the elections are due to take place on 28 April 2023, the High Court may conveniently take up the applications that may be moved before it expeditiously having regard to the above circumstances.

7 We clarify that we have not expressed any opinion on the merits of the claim or the grievance of the petitioners.

8 The Special Leave Petitions are accordingly disposed of.

9 Pending applications, if any, stand disposed of.”

3 Pursuant to the liberty granted by the Apex Court these interim applications have been filed.

4 At the outset, Mr. Shah stated that due to oversight, he did not ask for deletion of prayer clause (b) in the petition. Mr. Shah states that court may

treat prayer clause (b) as not pressed for. Mr. Shah states that respondent no.5 society has passed unanimous resolution on 24th January 2023 authorising society to defend this petition and in that resolution respondent nos.6 to 18, whose names are deleted, have participated. Mr. Shah further states names of these respondents have already been deleted from the voters list.

5 In view of the statement made by Mr. Shah, Mr. Joshi seeks leave to withdraw the interim applications so that applicants can challenge the deletion of their names.

6 Interim applications dismissed as withdrawn.

(RAJESH S PATIL, J.)

(K.R. SHRIRAM, J.)