

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.2513 OF 2023

Bandu Bhola Kakarwar, Post Mahalungi, Tah. Digras, Dist. Yavatmal and ors.

-VS-

The Secretary, State Co-operative Election Commission, Maharashtra State, Pune and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri V. N. Patre, Advocate for petitioners.
Shri S. S. Ghate, Advocate for respondent No.1.
Shri A. S. Fulzele, Additional Government Pleader for respondent Nos.2 and 3.
Shri A. M. Ghare, Advocate for respondent Nos.5,6,7,9,11,13 and 14.

CORAM : A. S. CHANDURKAR AND M. W. CHANDWANI JJ.

DATE : April 26, 2023

1. Heard.

2. The petitioners came to be elected on the Managing Committee of various Agricultural Credit Co-operative Societies in the elections that were held on 09/04/2023 and the results thereof were declared on 10/04/2023. Being so elected, the petitioners seek inclusion of their names in the final voters' list that has been prepared on 20/03/2023.

3. According to the learned counsel for the petitioners, the respondent Nos.4 to 15 were erstwhile members of the Managing Committee for the earlier term which expired on 29/11/2022. In view of the election of the petitioners on 10/04/2023, the said respondents have no right to have their names included in the final voters' list. The petitioners therefore pray that by deleting the names of respondent

Nos.4 to 15 in the final voters' list, their names be included therein. In the process, the petitioners have challenged the order dated 11/04/2023 passed by the District Election Officer/District Deputy Registrar, Co-operative Societies, Yavatmal by which such request has been denied. Relying upon the provisions of Section 13(1)(a)(i) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 read with Rule 36 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967 (for short, the Rules of 1967) it is submitted that names of the petitioners ought to have been permitted to be included in the final voters' list. If the petitioners' names are not permitted to be included in the final voters' list, it would defeat the right available to them under the statute and respondent Nos.4 to 15 though ineligible would be able to cast votes in the elections.

4. The learned counsel appearing for the respondents on the other hand submit that the District Election Officer has rightly relied upon Rule 7(5) of the Maharashtra Agricultural Produce Marketing Committees (Elections to Committee) Rules, 2017 (for short, the Rules of 2017). As per Rule 7(5) it is open for a person whose name is not included in the final voters' list to make an application at any time not later than five working days before the last date of making nomination and seek inclusion of his name. Since the last date of filing nomination was 03/04/2023, there was no occasion for the petitioners to have

made such application five days prior thereto since they were elected on 10/04/2023. For this reason the request made by the petitioners was rejected.

5. On hearing the learned counsel for the parties we find that firstly, Rules 35 and 36 of the Rules of 1967 have been deleted by virtue of Notification dated 16/12/2017. This is in view of the fact that the Rules of 2017 have been incorporated that govern the present situation. As per Rule 7(5) of the Rules of 2017, a provision is made to enable the person whose name is not entered in the final voters' list that is published under Rule 7(3) of the said Rules to seek the inclusion of his name by making an application not later than five working days before the last date of making nomination. It is not in dispute that the last date of nomination was 03/04/2023 and such application was therefore required to be made by an aggrieved person prior to five working days thereof. Since the petitioners were elected only on 10/04/2023, it is clear that the period within which the name of any person could be included in the final voters' list had been crossed. Besides the aforesaid provision, there is no other provision that would permit inclusion of the names of the petitioners in the final voters' list beyond the period permitted under Rule 7(5) of the Rules of 2017. The right to be included in the voters list is a statutory right and in the absence of any such enabling provision in the Rules of 2017 except Rule 7, the request made by the petitioners has been rightly refused.

Though Section 13(1)(a)(i) stipulates that eleven agriculturists elected by members of Managing Committees of Agricultural Credit Societies Are entitled to be members of the Market Committee, the right to be included in the voters' list is governed by Part II of the Rules of 2017.

6. For aforesaid reasons, we do not find any statutory right in favour of the petitioners to direct inclusion of their names in the final voters' list at this belated period in a manner not contemplated by Rule 7(5) of the Rules of 2017. It is clarified that it would be open for the petitioners to raise a challenge to the inclusion of the names of respondent Nos.4 to 15 in the final voters' list if occasion for the same arises after the declaration of results.

7. The Writ Petition is therefore dismissed. No costs.

(M. W. Chandwani, J.)

(A. S. Chandurkar, J.)

Asmita