

BHARAT
DASHARATH
PANDIT

Digitally signed
by BHARAT
DASHARATH
PANDIT
Date: 2024.01.25
20:10:31 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.989 OF 2024

Prakash Chandrakant Jagtap ...Petitioner

Versus

The Yashwant Sahakari Sakhar Karkhana & Ors. ...Respondents

AND

INTERIM APPLICATION NO.844 OF 2024

IN

WRIT PETITION NO.989 OF 2024

Mahadeo Tukaram Kanchan ...Applicant

In the matter between:-

Prakash Chandrakant Jagtap ...Petitioner

Versus

The Yashwant Sahakari Sakhar Karkhana & Ors. ...Respondents

AND

INTERIM APPLICATION NO.845 OF 2024

IN

WRIT PETITION NO.989 OF 2024

Pandurang Ramchandra Kale ...Applicant

In the matter between:-

Prakash Chandrakant Jagtap ...Petitioner

Versus

The Yashwant Sahakari Sakhar Karkhana & Ors. ...Respondents

Mr. Ranjit Thorat, Senior Advocate a/w. Mr. Sandeep Salunkhe for the
Petitioner.

Mr. Suhas S. Inamdar for the Applicant in IA/844/2024.

Mr. Abhijit Kulkarni a/w Mr. Chinmay Patel for the Applicant in
IA/845/2024.

Mr. Deelip Patil Bankar for the Respondent No.2 (SCEA).

Mr. N. C. Walimbe, Addl. G. P. a/w. Mr. R. A. Salunkhe, AGP for the Respondent (State).

**CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.**

DATE : 25th JANUARY 2024.

P.C.:

1] Heard.

2] The Petitioner who is a member of Yashwant Sahakari Sakhar Karkhana – Respondent No.1 prays that the elections of the Managing Committee of the said Co-operative Society may not be conducted till appropriate steps are taken for correcting the Voters' List and including names of legal heirs of about 4000 members who are stated to have expired during the period from 2006 till finalization of Voters' List. Interim Applications Nos.844 of 2024 and 845 of 2024 have been filed by two members seeking intervention in the Writ Petition

3] After hearing the learned Senior Advocate for the Petitioner, the learned Counsel appearing for Respondent No.2, the learned Additional Government Pleader appearing for Respondent Nos. 3 to 7 as well as the learned Counsel appearing for the interveners, we are not inclined to grant relief as prayed for by the Petitioner for the following

reasons:-

(a) In Writ Petition No.4762 of 2023 that was also filed by the present Petitioner, a statement was made on behalf of the State Co-operative Election Authority that on deposit of election expenses, the process of conducting elections would be held after 01/10/2023. In accordance therewith, the State Co-operative Election Authority published Notification dated 26/12/2023 indicating publication of provisional Voters' List on 26/12/2023, permitting objections to be raised to the same from 26/12/2023 to 03/01/2024, adjudication of objections to the provisional Voters' List to be decided on 12/01/2024 and publication of the final Voters' List on 17/01/2024. Accordingly, the final Voters' List stands published on 17/01/2024. In view of the law laid down by the Hon'ble Supreme Court in *Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and Another* (2001) 9 SCC 509, preparation of the electoral roll being an intermediary stage in the process of conducting elections for constituting

the Managing Committee of a specified Society, the same would amount to interference at this stage if final Voters' List is to be modified.

(b) The Petitioner raised an objection to the provisional Voters' List in accordance with Notification as published by the State Co-operative Election Authority. The said objection was considered by the State Co-operative Election Authority and rejected on 12/01/2024. A specific objection with regard to no inquiry being conducted in the context of the deceased voters was also specifically raised. The Petitioner has not challenged the said adjudication that was undertaken under Rule 11 of the Maharashtra Co-operative Societies (Election) Rules, 2014. Without challenging that adjudication, the Petitioner prays for deferring the elections till corrective measures with regard to deceased members are taken by the Society.

(c) Petitioner's name figures in the final Voters'

List. No person claiming to be legal heir/representative of any deceased voter has approached this Court with the grievance sought to be raised by the Petitioner. Right to vote and participate in an election being merely a statutory right and no such statutory right of the Petitioner having been shown to have been infringed, the Petitioner does not possess the locus to seek deferment of the election till the Voters' List is corrected.

(d) Though the State Co-operative Election Authority published its Notification on 26/12/2023 and the Petitioner availed the opportunity of raising challenge to the preparation of the said provisional Voters' List, this Writ Petition has been filed on or about 15/1/2024. Since the final Voters' List now stands published, we do not deem it appropriate to exercise discretionary jurisdiction under Article 226 of the Constitution of India at this stage.

4] For aforesaid reasons, the Writ Petition stands dismissed. It is,

however, made clear that at the conclusion of elections and after declaration of results, it would be open for the Petitioner, if aggrieved, to raise appropriate challenge in accordance with law. All points in that regard are kept open. The Interim Applications are also disposed of.

(JITENDRA JAIN, J.)

(A. S. CHANDURKAR, J.)