

Shabnoor

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

WRIT PETITION NO.2468 OF 2024

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Bellippady Sampathkumar Rai ... Petitioner

V/s.

M/s Kalpataru Estate Cooperative
Housing Society Federation Ltd & Ors ... Respondents

Mr. Saurabh Butala a/w Mr. Harshad Bhadbhade a/w
Mr. Siddharth Mehta i/by Ms. Nikita Mandaniyan, for
Petitioner

Mr. Dilip Bodake, for Respondent No.2.

Mr. Y. D. Patil, AGP for State/Respondent No.5.

Mr. Vishal Kanade a/w Ms. Kausar Banatwala a/w Ms.
Riya Thakkar i/by Tushar Goradia, for Respondent
No.3.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 23, 2024

P.C.:

1. The chairman of respondent No.1/Federation is challenging the order dated 2 November 2023 passed by respondent No.2 whereby the objections raised by the petitioner have been rejected by the Election Officer in exercise of power under Rule 8(3) of the Maharashtra Cooperative Societies (Election to Committee) Rules,

2014.

2. The law on that point of power of the Election Officer under Rule 8 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 is well settled. The Division Bench of this Court in the case of **Dhondiba Parshuram Lakade Vs. Shri Someshwar Sahakari Sakhar Karkhana Ltd.**, reported in 1979 Mah LJ 311 while interpreting similar power under Rule 6 of the Maharashtra Specified Cooperative Societies Election to Committees Rules, 1971, has held that the power of Returning Officer (Collector) in the relevant Rules was to ascertain names, addresses and other particulars of the members. It is held thus:

“47. It must also be remembered that the scope of the inquiry by the Collector under r. 6 is not only limited in nature, but is also of an extremely summary nature. Under r. 4(2), the voters' list must reach the Collector by July 15 and copies of the voters' list must be displayed by July 20. Under r. 6(2), the claimant or objector who makes a petition before the Collector must do so by July 31 and under r. 6(4) the Collector must give his decision on such claim or objection within ten days, namely by August 10. These four dates, namely July 15, July 20, July 31 and August 10 emphasise the summary nature of the inquiry contemplated by r. 6. There is nothing in this rule from which it can even remotely be inferred that the Collector is authorised or empowered to hold a detailed inquiry as done in the instant case, call for documents to establish eligibility to membership, examine or cross-examine witnesses or otherwise dwell on the question whether a member deserves to be included in the Membership Register or not. The fact that the inquiry under r. 6, is of a summary nature

is also reflected from the fact that against his decision, no appeal has been provided. This emphasises that the enquiry, such as it is, under r. 6 is not only a very summary inquiry, but also mechanical (though not without responsibility), limited only to the aspects set out in the rule itself and no more.”

3. The language of Rule 8(3) of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 is similar to the Rule 6(4) of the Maharashtra Specified Cooperative Societies Election to Committees Rules, 1971. Therefore, an enquiry under Rule 8 of the Rules needs to be restricted to any omission or error in respect of names, addresses or other particulars in the list.

4. In the context of such power, the petitioners raised objections before the Election Officer under Rule 8 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 contending that the election of the society had already taken place on 30 September 2012 and term of the society is yet to be expired, considering the limited scope of the Rule 8 of the said Rules, adjudication of such objection was beyond the powers of the Election Officer and has, therefore, been rightly rejected. Therefore, in my opinion, the writ petition challenged only order dated 2 November 2023, need not be interfered with.

5. The writ petition stands dismissed.

(AMIT BORKAR, J.)