



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1301 OF 2025

1. Gitanjali Majur Sahakari Society Ltd.
2. Jivan Majur Sahakari Society Ltd.
3. Jay Bajrang Majur Sahkari Society Ltd.
4. Shivshahi Majur Sahkari Society Ltd.
5. Girad Majur Sahakari Sanstha Maryadit.
6. Mahatma Phule Majur Sahakari Society Ltd.
7. Navjivan Majur Sahakari Sanstha Maryadit.
8. Pramangal Majur Sahakari Society Ltd.
9. Sant Gajanan Majur Sahakari Sanstha Maryadit.
10. Prabhat Majur Sahakari Society Ltd.
11. Ajay Majur Sahakari Society Ltd.
12. Gopibai Majur Sahakari Society Ltd.
13. Gurudatta Gavandi Majur Sahakari Society Ltd.
14. Girna Majur Sahakari Society Ltd.
15. Saptshrungi Majur Sahakari Society Ltd.
16. Vaishali Majur Sahakari Society Ltd.
17. Panchshil Majur Sahakari Society Ltd.
18. Nandkumar Majur Sahakari Sanstha Maryadit.
19. Shramjivi Majuranchi Sahakari Society Ltd.

20. Jamner Majur Sahakari Society Ltd.

21. Shivmurti Majur Sahakari Society Ltd.

22. Rojgar Hami Majur Sahakari Society Ltd.

23. Utkarsh Sahakari Majur Sanstha Maryadit.

24. Gajanan Majur Sahakari Sanstha Maryadit.

25. Kalyan Majur Sahakari Sansha Rajwad.

26. Samarth Rangkam Bandhakam Majur

Sahakari Society Dholi.

...Petitioners

VERSUS

1. The State of Maharashtra

Through its District Deputy Registrar,
Co-operative Societies, Jalgaon.

2. The State Co-operative Election

Authority, Jalgaon, Tal Dist. Jalgaon.

3. Taluka Co-operative Election

Officer/Authority,

So also Deputy Registrar Co-operative
Societies, Jalgaon, Tal. Dist. Jalgaon.

4. Jalgaon Zilha Krushi Audhogik

Sarv Seva Sahakari Sanstha, Maryadit,

Office at Visanji Nagar, Near Home Guard Office,
Jalgaon, Tal. Dist. Jalgaon.

5. Dnyaneshwar Bhadu Mahajan

Age: 62, Occu: Nil,

R/o. Motha Madiwada,

Near Ramayanmadi, Dharangaon,
Tal. Dharangaon, Dist. Jalgaon.

...Respondents

.....

Mr.Vijay B. Patil Advocate for the petitioners.

Mr.P P Dawalkar, AGP for Respondent No.1.

Mr. V. H. Dighe Advocate for Respondent Nos.2 and 3.

Mr. V. D. Salunke Advocate h/f Mr. Mayur V. Salunke Advocate for
Respondent No.5.

.....

CORAM : KISHORE C. SANT, J.

DATE : 31st JANUARY 2025

JUDGMENT :-

1. Rule. Rule made returnable forthwith with the consent of the parties.

2. The question post in the writ petition is the question which oftenly arises before the Returning Officers conducting the election to the Co-operative Societies. A challenge is to an order dated 20th January 2025 passed by the Taluka Co-operative Election Officer/Authority and Deputy Registrar Co-operative Society, Jalgaon. By way of impugned order, names of the petitioners are directed to be deleted from the list of voters by holding that the

petitioners are not eligible and qualified to be members of the society and thus not entitled to take part in the election process.

3. The question thus, is posed as to whether the Returning Officer can adjudicate upon the question of eligibility and entitlement of a member and to delete their names from the voter list. The petitioners are the persons, who are members of Respondent No. 4 /Federal Society.

4. The respondent No.1 is the State of Maharashtra. Respondent No.2 is the State Co-operative Election Authority, Jalgaon. Respondent No.3 is the Taluka Co-operative Election Officer/Authority. Respondent No.4 is the Federation. The Respondent No.5 is the person at whose instance the order is passed by Respondent No.3.

5. The facts, in short, that all these 26 societies are Majur Sahakari Societies i.e. Labour Co-operative Society. They are the members of the Respondent No.4 Society. Since establishment, they

are taking part in every election held to the Managing Committee of Respondent No.4 Society. Now again the elections are to be held. The list of voters was published on 7th October 2024. All the petitioner societies are shown in voters list as voters in the list published by Respondent No.3. The Respondent No.5 raised an objection to the names of the petitioners and prayed for deletion of their names from the list. The objection is that these societies being labour societies and not multi-purpose co-operative societies, are not entitled to be the member of Federation. The respondent No.3 on receipt of the objection, issued notice only to Respondent No.4 Federation calling for explanation. The respondent No.4 submitted an explanation. It is submitted that the Respondent No.3 being a Election Officer, has no authority to decide the question of validity of membership of the petitioners-societies. There is nothing in the bye-laws of the federation providing that labour societies cannot become members of the federation. The membership is open to all kind of societies registered under the Co-operative Societies Act.

6. After considering the explanation and hearing the parties, it is held that in view of bye-laws of the society, only the societies which are mentioned in the bye-laws can become member of Federation. In the bye-laws, there is no mention of the word "Labour Societies" and therefore they cannot be held to be eligible to become members and ultimately cannot be taken as valid voter's. The objection thus came to be sustained by respondent No.4. The order came to be passed deleting names of these petitioner societies from the list of valid voters. The petitioners are thus before this Court.

7. The main submissions of the petitioners are that; (1) there is nothing in the act or the bye-laws to exclude the labour societies from becoming members of Respondent No.4 Federation; (2) The jurisdiction to decide the question about validity of membership is not with the election officer; (3) In this case, no notice is issued to any individual society. The notice is issued only to the federation. The order is thus in violation of principals of natural justice and the

order is therefore deserves to be quashed and set aside.

8. The learned Advocate for the petitioners Mr.Patil vehemently argued that the Rule 6 of Maharashtra Specified Co-operative Societies (Elections to Committees) Rules, 2014 (hereinafter referred to as "2014 Rules") does not give power to Returning Officer to decide the question of validity of the membership.

9. That objections to be called within 10 days after publication of the list of voters. In the present case, list of voters was published on 7th October 2024. The objection was filed on 13th January 2025. Thus beyond 10 days period and in that view, the objection could not have been entertained. Rule 11 of the 2014 Rules only permits the changes in the name, address etc. and nothing more. The power under Rule 11 cannot be used to delete the name of the voters. He relied upon Section 23 of the Maharashtra Co-operative Societies Act and submitted that no membership can be refused to anyone by the society.

10. He further submits that the petitioners society are duly inducted as members. Bye-law 8 of the bye-laws of Respondent No.4 deals with the membership of the Societies it provides that membership and categories of the members. Rule 8 provides that the societies registered under Co-operative Societies Act in District Jalgaon as marketing, processing, horticulture, Milk, Fruit, Vegetable Societies, Consumer Societies and Multi-purpose Societies, who apply for membership can become member by approval of the Management Committee. All the petitioners societies have become members on their application approved by the Managing Committee. This rule cannot be read to exclude the labour societies merely because the wording as labour societies does not appear in the bey-laws 8 (A). He submits that the objection was raised only to the eligibility of voters and not to be membership. Mr.Patil further submits that bye-laws came into force in 2014 whereas the petitioners have become members in 1996, since then they have participated in the election.

11. So far as the jurisdiction and power of Returning Officer is concerned, he relied upon the following judgments:

*(i) Dhondiba Parshuram Kakade Vs. Someshwar Sahakari Sakhar Karkhana Ltd. and Ors.*¹

*(ii) Usha Bhaginath Bhagat and Ors. Vs. State of Maharashtra and Ors.*²

*(iii) Ankita Gaurav Mungad and Ors. Vs. State of Maharashtra and Ors.*³

(iv) Ashok Baburao Tathe and Ors. Vs. The State Co-operative election Through Secretary and Ors. decided by this Court in Writ Petition No.2889 of 2022 on 8th March 2022.

12. Mr. Salunke, the learned Advocate for the Respondent No.5 vehemently opposes the petition. He fairly submits that this issue crops up every now and then and it is necessary to settle the issue once for all. He submits that in the present case, the objection was very specific that the petitioner societies happen to be labour

1 1979 BCI 43

2 [2021 DGLS (Bom.) 2009]

3 [2023 DGLS (Bom.) 2055]

societies. The cadre of labour societies is different than the other co-operative societies. There is separate federation of the labour societies at district level and also at State level. The petitioners societies cannot become members of federation of other societies. There is inherent lack of right and qualification in them to become members of respondent-federation. The petitioners therefore cannot be the members of the Federation when the petitioners are not eligible to be members. There is no question of the petitioners getting right to vote. In the present case, he submits that, the Returning Officer has dealt only with the aspect of the right to vote of the petitioners. There is nothing in the order to show that their membership itself is cancelled. The authority has thus exercised the power within the jurisdiction. Publishing of the names of the society in the voters list is not final. The said list was subject to objection. Rules 7 and 8 provides for calling of objections. Rule 9 and 11(3) provides further course of action. A notice given to Respondent No.4 is sufficient compliance of rules of natural justice

as Respondent No.4 represented cause of the petitioners. He submits that Rule 11(3) does not even require a notice. In the order, the election officer has not cancelled the membership but has taken away the right to vote. The respondent No.3 has properly considered the case of the petitioners showing application of mind. He submits that Rule 19 of the Conduct of Election Rules, 1961 is the basic Rule. He submits that, the bye-laws is integral part of rules having binding force under the Act. The authority has rightly concluded that it is only such societies which are mentioned in Bye-laws 8(A) are the societies eligible to become members of the federation. So far as not giving notices to the petitioners is concerned, he submits that at the most, in such cases, the matter can be remanded back for decision afresh by giving an opportunity to the petitioners. He relied upon the judgments as below:

(i) Chief Commissioner of Ajmer Vs. Radhey Shyam Dani⁴.

(ii) Dilip Motiram Andhare and Ors. Vs. State of

4 [1956 DGLS (SC) 94]

***Maharashtra and Ors.*⁵**

***(iii) Sambha Vs. The State of Maharashtra and Ors.*⁶**

13. In support of his submission that the membership of the society is different than the right of vote in the election. He thus submits that no any illegality is pointed out calling for interference at the hands of this Court exercising extra-ordinary powers under Article 227 of the Constitution of India. He prays for dismissal of the writ petition.

14. Mr.Dighe, the learned Advocate appearing for the Respondent No.2 and 3 (Election Authorities) and opposes the petition. He submits that the objection was only as regards voters right. Since the objection goes to the root of the matter, the authority has rightly considered the same. The petitioner societies are the labour societies and those could not have become members of the federation. The petitioner societies may not have been named

5 [2021 DGLS (Bom.)1850]

6 [1996 CTJ 226]

specifically as labour societies. However, looking to the aim and object of the petitioner societies, it is seen that those societies are necessarily labour societies. He also relied on Rule 11(3) of the Rules of 2014. He submits that it is open for the election officer to hold such inquiry which is necessary to decide right of vote. The membership in the present case is kept intact. It is only held that they are not eligible to become members and to vote in the election. He submitted that in the present case remand is not necessary, since the Respondent No.3 has considered all the aspects involved in the matter and has considered the interest of the petitioners societies. List is finalized on 20th January 2025. Further calender of the election is to follow and the election program is required to be published on or before 10th February 2025 by relying on Rule 18 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014.

15. In the case of ***Dhondiba Kakade*** (supra), the question was about right to vote. It was contended that the Collector had no

jurisdiction to decide the question of validity of membership while exercising the powers conferred on him by Rule 6 and thereby to alter or amend the Register of members. It was stand of the Returning Officer in the said case that the adjudication of the claims to be enrolled in the voters list and objection to the enrollment was within the ambit and scope of Rule 6 and thus within a powers and jurisdiction of the Collector. The Division Bench of this Court held that there is nothing in this Rule empowering the Collector to hold the detailed inquiry as it was done in the said case. The Collector has dealt with question as to whether, the person is qualified to be on the register of the members and not to delete his name from the provisional Rule under Section 38(2) of the Societies Act. It is held that the inquiry under Rule 6(1) contemplates a very summary inquiry and confined only to the aspects set out in the said rule. Thus it is specifically held that there is nothing to authorize Collector to hold detailed inquiry. It is also considered that against such order, there is no appeal provided.

16. In the case of ***Usha Bhaginath Bhagat*** (supra), in the said judgment, in the case of ***Dhondiba Kakade*** (supra) is considered, in that case it was held that names of the petitioners were deleted from the voters list for no substantial reason. The writ petition was allowed by setting aside the order by deleting the name of the voters.

17. In the case of ***Ankita Mungad*** (supra), this Court again held that large number of voters were sought to be deleted by the impugned order. Election Officer had travelled far beyond scope of Rule 7 and in view of the same, the order of deletion of voters was set aside.

18. In the case of ***Ashok Tathe*** (supra), this Court also set aside the order deleting the names of the petitioners therein and other members from the final voters list. It was directed that those names be included in the voters list.

19. Coming to the Judgments relied upon by the learned Advocate for the Respondents those are considered below. In the case of ***Chief Commissioner of Ajmer*** (supra), it was in respect of Ajmer Merwara Municipalities Regulation Act, 1925 and Ajmer State municipalities Election Rules, 1955. In the said case it was held that, while deciding the question of maintaining electoral rolls, opportunity should be given to the parties concerned to scrutinize whether the persons enrolled as electors possessed the requisite qualifications. There is needs to be adjudication of claims to be enrolled on objections to such enrollment. This Court does not find that this judgment is applicable in the present case.

20. So far as judgment in the case of ***Dilip Andhare*** (supra) is concerned, necessarily what was considered was rule. In that case, the Court has considered the case of individual voters and not like the societies. It was held that, in view of Section 38 of the Act, it is permissible for the election officer to examine the provisional list

and to ensure that the persons who are not eligible to become members as per bye-laws of the societies are deleted from the provisional voters list. It was held that otherwise, even if the person is not eligible to become members as per bye-laws, would be entitled to vote and consequently also to contest the election. Thus it is against basic requirements of become members.

21. This Court finds that it was the case of individual membership. In the case of ***Sambha*** (supra), this Court has held that the bye-laws are integral parts of rule for administration of Co-operative Societies. The only requirement is that they should not repugnant to the Act or rules get under the Act. There is no dispute about the said proposition.

22. So far the Judgment in the case of ***Dilip Motiram Andhare*** is concerned, he submits that the petitioners therein were individual members of the society. In that case, rule provides for automatic disqualification and in that view the judgment was delivered. On this,

the learned Advocate Mr.Salunke submits that Rules are only modified in 2014 and therefore those are called as Rule 2014.

23. This Court has to thus consider the writ petition in view of submissions and judgments. The first is whether in the objection raised by Respondent No.5, Respondent No.3 could have considered the right of the petitioners to the membership of the society. Rule 11 of the Co-operative Societies Act, 2014 dealt with the claims and objection to the provisional list of voters and the final list of voters for the societies having society or societies and individuals as members. Sub-rule 3 provides that the District Co-operative Election Officer or Taluka or Ward Co-operative Officer shall make such inquiries as necessary and consider each claim or objection and to give decision to the persons concerned within 10 days from the last date dispatched for receiving the claims and objections and final voters list. List be published within a period of 15 days from the last date prescribed for receiving claims. In the present case, the provisional list was published before 7th October 2024. The

objection is raised on 30th January 2025. The objections thus, having raised after 10 days could not have been considered by the Respondent No.3.

24. This Court finds force in the submission of learned Advocate for the petitioner that no objection could have been entertained after 10 days of publishing of the provisional voters list.

25. So far as power of the election officer under Rule 11 is concerned, there is nothing to show that the Election Officer is authorized to consider the eligibility of members to become member of the society. From looking to the order passed by the Respondent No.3, it is seen that the learned Officer has dealt with very membership and has discussed the eligibility of the petitioners. This Court finds certainly it was beyond the jurisdiction of the Respondent No.3. The Respondent No.3 is only required to consider as to whether the member is otherwise not eligible to vote on the grounds like non payment of fees etc. He certainly could not have

gone into the aspect of eligibility. When the valuable right of voting is taken away by deleting the names, it was necessary for respondent No.3 to give individual notices to each of the petitioners.

26. Considering all these judgments and submissions, this Court certainly finds though the questions are raised, this Court finds that since objection was recorded beyond 10 days and that was entertained, it was certainly beyond the power to considered said objections. The other aspects involved is that the petitioners are the members since 1996 of Respondent No.4. The respondent No.5 is also members since long. There was no objection raised any time by respondent No.5. The petitioners have participated in the earlier elections when Respondent No.5 was also member. The objection is raised for the first time that too much after the period for raising objection i.e. it has already come that the provisional voters list was published on 7th October 2024. Objections were required to be filed within 10 days. However, the same is raised on 13th January 2025,

certainly that is beyond 10 days. Secondly, further this Court finds that no individual notices were given to the individual society. On this grounds certainly, the impugned order deserves to be quashed and set aside. The other questions are not considered as those can be considered in proper case. In this case since this Court has held the the order is illegal on the other point, this Court need not touch the larger issue in the present case. Considering all above, following order:

ORDER

- (i) Writ Petition stands allowed in terms of prayer clause (B).
- (ii) The impugned order dated 20th January 2025 passed by Taluka Co-operative Election Officer and Deputy Registrar Co-operative Societies Jalgaon, is quashed and set aside.
- (iii) No order as to costs.
- (iv) Rule is made absolute in above terms.

[KISHORE C. SANT, J.]