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114-WP-5695-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

114 WRIT PETITION NO. 5695 OF 2025

Kishan Tukaram Jadhav

VERSUS

The State Of Maharashtra Through Its Additional Chief Secretary And
Others

...

Mr. Shahaji B. Ghatol Patil, Advocate for the Petitioner.

Mr. P. D. Patil, AGP for Respondent-State.

Mr. S. K. Kadam, Advocate for Respondent Nos. 5 and 6.

CORAM : KISHORE C. SANT, J.

DATE : 5th MAY 2025

PC :-

1. Heard the learned Advocate for the petitioner.
2. The petitioner is the member of Respondent No.7-Society namely, Vividh Karyakari Seva Sahakari Saanstah Ltd. Mairal Sawangi, registered under the Maharashtra Co-operative Societies Act. Now, the election to the said society is declared on 28th April 2025. As per the program, nomination are to be filled in from 29th April 2025 till 6th May 2025. The voting is to held on 29th May 2025. Declaration of the result on the same day.

3. It is the case of the petitioner that Respondent No.8 Anil Kutare and Respondent No.9 Bhagwat Giri, are not the members of the society and still their names appear in the list of valid voters. It is specific case that in the record, there is no application is seen for making Respondent Nos. 8 and 9 as members. There is also no record showing that these respondents have share paid amount. The learned authority i.e. Taluka Co-operative Election Officer, however, turned down the objection on the basis of report submitted by the Secretary of Respondent No.7-Society. The society represented before the authority that the said respondents are the members as per bye-laws of the Society. Report was thus submitted to retain their names in the voter list. Thus, on this basis, objection came to be rejected.

4. Learned Advocate for the petitioner points out that the petitioner had filed specific application to the Assistant Registrar, Co-operative Society, Gangakhed, calling for the information about the application and payment of share amount and fees by Respondent Nos. 8 and 9. In spite of this, no such information is supplied. The learned Advocate thus argued that when those basic two requirements are not fulfilled by

the respondents, their names could not have been accepted as member of the society.

5. In spite of service, none appears for Respondent Nos. 7, 8 and 9.

6. Learned AGP vehemently opposed the application.

7. Learned Advocate Mr. Kadam appearing for respondent Nos. 5 and 6, submits that it does not appear from the order that any record was specifically produced before the authority and prays for passing appropriate order.

8. This Court has seen the order passed by the authority. It is seen that the authority was satisfied only on the basis of report submitted by the Secretary. No material as such is produced before the authority showing that the respondents have made an application for becoming members or have prayed any relief. The respondent Nos. 8 and 9 have not even appeared before the authority.

9. This Court thus finds that the order passed is only on the basis of report by the Secretary of the Society. It was necessary for the said authority to personally verify the record. In absence of record, it was not proper to accept the same. There is nothing on record to show as to why

the society could not produce the material on record.

10. In view of the discussion above, this Court is inclined to allow the writ petition. Writ Petition stands allowed in terms of prayer clause (B) and the same is disposed off as such.

11. Parties to act an authenticated copy of this order.

[KISHORE C. SANT, J.]