



(1)

903- WP-6127-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

903 WRIT PETITION NO. 6127 OF 2025

Amit Ombhushan Kshirsagar And Others

VERSUS

The State Of Maharashtra Through The Secretary And Others

...

Mr. Vasant Digambarrao Salunke, Advocate for the Petitioners.

Mr. K. S. Patil, AGP for Respondent-State.

Mr. S. K. Kadam, Advocate for Respondent No.3.

Mr. S. S. Tope and Mr. Vishal Bagal, Advocate for Respondent No.4.

CORAM : KISHORE C. SANT, J.

DATE : 9th MAY 2025

PC :-

1. Heard Mr. Salunke, the learned Advocate for the petitioner, Mr. Patil, the learned AGP for Respondent-State, Mr. Kadam, the learned Advocate for the Respondent No.3 and Mr. Tope, the learned Advocate for Respondent No.4.

2. The petitioner happens to be a member of Respondent No.4/ Co-operative Housing Society. The election programme is published by Respondent No.3. Since the name of the Petitioners were not appearing in the voter list. The petitioners filed an application for inclusion of

their names in the voter list. The said application was allowed by Respondent No.3 on 20th April 2025. However, without giving any notice and without any objection or application challenging the said order, the Respondent No.3 on his own set aside his own earlier order. This order dated 20th April 2025 is the matter of dispute in the present petition.

3. The learned Advocate Mr. V. D. Salunke, vehemently argued that the petitioners are duly included as a member of the society. However, their names could not be included in the voter list. Therefore application was filed. The election officer rightly included their names. However, suddenly on 28th April 2025, such order is cancelled. He assailed the order on two grounds that there is no power to review the order passed by the election officer. Secondly, this order is passed without giving any notice to the petitioners. He further argued that, this review is entertained without there being any objection by any of the parties. He submits that the impugned order is totally illegal and deserves to be quashed and set aside.

4. Mr. Tope, the learned Advocate for the Respondent No.4 vehemently opposed the petition. He submits that in view of Rule 78 of

the Conduct of Elections Rules, 1961, the remedy available is to file election dispute under Section 91 of the Co-operative Societies Act. So far as power to file review, he submits that there is no such power of review with the Respondent No.3. He however submits that the authority has rightly considered the matter on merits and has passed the order. There is nothing on record to show that the petitioners have complied with the condition to become members. He thus prays for rejection of the petition.

5. Learned AGP prays to pass appropriate order.

6. Mr. S. K. Kadam, the learned Advocate appearing for Respondent No.3 also fairly submits that there is no power to review the order available with Respondent No.3.

7. Having considered the petition and the grounds, this Court finds that there is nothing to show that the Respondent No.3 has the power to review his own order. It is also a matter on record that no notice was issued before passing impugned order. This court thus finds that, this order is passed bad in law in both the above points. This Court therefore has no hesitation in allowing the writ petition. Therefore, the

writ petition stands allowed in terms of prayer clause (B) and (C).

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

[KISHORE C. SANT, J.]