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

WRIT PETITION NO.323 OF 2025

Vijay Baburao Malme & Ors.

... Petitioners

V/s.

The State of Maharashtra & Ors.

... Respondents

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Mr. Suresh Sabrad with Ms. Gracy Saldanha and Neha Zanje i/by Mr. Pratik Sabrad for the petitioners.

Mr. J.P. Patil, AGP for respondent No.1-State.

Mr. Dilip Bodake for respondent No..

Mr. Manoj Patil with Mr. Shubham Phenge for respondent No.3.

Mr. Chetan Patil with Mr. Bhushan Jadhav and Mr. Vishwesh Gadage for respondent Nos.4 to 27.

CORAM : AMIT BORKAR, J.

DATED : MARCH 27, 2025

P.C.:

1. By this Writ Petition under Article 226 of the Constitution of India, the petitioners have assailed the legality and validity of the order passed by the Returning Officer in exercise of the powers conferred under Rule 8 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 (hereinafter referred to as "the said Rules"). The impugned order pertains to the preparation and finalisation of the provisional voters' list for the purpose of conducting elections to the Managing Committee of the concerned Co-operative Society.

2. It is the case of the petitioners that certain persons, though not eligible to be included in the voters' list as per the relevant statutory provisions and bye-laws of the Society, have been wrongfully included by the Returning Officer. On the other hand, the respondents contend that certain eligible members, who were otherwise entitled to be included in the voters' list as on the prescribed cut-off date, were initially omitted but have now been rightly included by the Returning Officer.

3. This Court finds that the Returning Officer, while exercising powers under Rule 8 of the said Rules, has accepted the objections raised by the respondents and directed the inclusion of certain names in the voters' list. The said action appears to have been taken on the premise that those individuals were reflected as members of the society in the official records on the cut-off date. The inclusion is thus limited to the ministerial act of verifying the membership status as available on record, and does not amount to an adjudication on the substantive legality of their membership or the process by which such membership came to be recorded.

4. It is well settled that the powers of the Returning Officer under Rule 8 of the said Rules are confined to a limited administrative scrutiny for the purpose of ensuring that the names of members, as recorded in the society's register, are correctly reflected in the electoral roll. The Returning Officer is not vested with the jurisdiction to conduct a roving inquiry into the legality or validity of such membership or to decide complex factual issues relating to the admission of members or the eligibility criteria laid down in the Act or the bye-laws. Those are matters which fall

within the domain of the competent authority in appropriate proceedings.

5. In the event the petitioners are aggrieved by the inclusion of any names in the final voters' list, their remedy lies in invoking the statutory mechanism of filing an election petition under Section 91 of the Maharashtra Cooperative Societies Act, 1960, after the conclusion of the election process. It is trite that once the election process has commenced, the Courts are slow to interfere with the same in writ jurisdiction unless there is a manifest illegality or breach of fundamental rights, which is not demonstrated in the present case.

6. The contentions raised by the petitioners as to the alleged ineligibility of the members whose names have been included, as well as the alleged irregularities in the process of their enrollment, are therefore expressly kept open to be agitated in the appropriate forum, including in an election petition, if the petitioners are so advised.

7. In view of the foregoing discussion, and in the absence of any material to show that the action of the Returning Officer suffers from a jurisdictional error or patent illegality warranting interference in writ jurisdiction at this stage, no case for interference under Article 226 of the Constitution of India is made out.

8. The Writ Petition is accordingly disposed of in the aforesaid terms. There shall be no order as to costs.

(AMIT BORKAR, J.)