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

WRIT PETITION NO.3266 OF 2025

Nanaso Baliram Kanse

... Petitioner

V/s.

The State of Maharashtra & Ors.

... Respondents

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Mr. Sanjeev Kadam with Ms. Aditi Rajput, Mr. Prashant Raul i/by Mr. Bhalchandra Shinde for the petitioner.

Mrs. Kavita N. Solunke, AGP for respondent Nos.1, 2, and 4-State.

Mr. Shankar Katkar for respondent No.5-Society.

CORAM : AMIT BORKAR, J.

DATED : MARCH 4, 2025

P.C.:

1. The gravamen of the challenge in the present writ petition is an order passed by the District Election Officer in the exercise of powers vested under Rule 8 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 (hereinafter referred to as "the said Rules"). The petitioner, being a member of respondent No.5-Society, has impugned the said order on the premise that it is vitiated by non-application of mind, arbitrariness, and an erroneous interpretation of the statutory provisions governing eligibility criteria for membership in a cooperative society.

2. The substratum of the petitioner's grievance revolves around the inclusion of certain individuals as members of the Society, despite their ostensible ineligibility. It is contended that respondent No.5-Society has inducted persons who are either closely related to existing members or otherwise disqualified under the governing statutory framework. More particularly, the petitioner asserts that these individuals do not possess any land within the territorial limits of the Society's area of operation, thereby rendering them ineligible for membership. It is further submitted that one such member is a minor, which constitutes a manifest infraction of the eligibility norms stipulated under the Maharashtra Cooperative Societies Act, 1960 and the Rules framed thereunder. The District Election Officer, however, has declined to entertain these objections and has proceeded to reject the petitioner's contentions.

3. In order to effectively adjudicate upon the controversy at hand, it is imperative to advert to the statutory framework, particularly Rule 8 of the said Rules, which is extracted hereinbelow for ready reference:

“8. Claims and objections to the provisional list of voters and the final list of voters for cooperative societies having individuals as members.

(1) When the provisional list of voters is published for inviting claims and objections, any omission or error in respect of name or address or other particulars in the list may be brought to the notice of the concerned District Co-operative Election officer or Taluka or Ward Co-operative Election Officer in writing by any member of the society during office hours within ten days from the date of publication of the provisional list of voters.

(2) Every claim or objection shall be in writing and state the grounds on which the claim is based or the objection is raised, as the case may be.

(3) The District Co-operative Election Officer or Taluka or Ward Co-operative Election Officer shall, or as directed by the SCEA, after making such enquiries as deem necessary in this behalf, consider each claim or objection, and give his decision thereon in writing to the persons concerned within ten days from the last date prescribed for receiving the claims and objections. Thereafter final voters list should be published within the period of fifteen days from the last date prescribed for receiving the claims and objections. The list finalized by the election officer after deciding all claims and objection shall be final list of voters.

(4) The copies of the final list of voters shall be displayed on the notice board of the District Co-operative Election Officer and also on the notice board of the society at least ten days before the declaration of the election programme and in no case later than fifteen days from the finalization of claims and objections. The District Co-operative Election Officer may also cause it to be published on the official website of the SCEA, if any.”

4. Upon a careful and meticulous scrutiny of Rule 8 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014, it becomes apparent that the District Election Officer is conferred with the circumscribed authority to decide claims and objections limited to “any omission or error in respect of name or address or other particulars in the list.” In other words, the legislative intent discernible from a plain reading of the provision is that the District Election Officer’s domain is restricted to rectification of such omissions and errors. This power does not

extend to adjudicating upon the eligibility or qualification of prospective voters or members. Such a wider adjudicatory power, by force of statute, is vested with the Registrar under Section 11 of the Maharashtra Cooperative Societies Act, 1960. In view of the limited scope of authority of the District Election Officer, a prospective objector who contends that certain ineligible members have been improperly enlisted or that disqualified individuals have exercised their franchise must avail the appropriate statutory remedy. The established legal position underscores that such disputes, if not remedied by the Registrar, can be pursued by way of an election petition, wherein the objector may assail the validity of the election on the ground that the participation of ineligible voters has materially affected the ultimate outcome, thus warranting the setting aside of the election.

5. This view is fortified by the pronouncement of the Division Bench of this Court in the case of *Dhondiba Parshuram Lakade & Ors. v. Someshwar Sahakari Sakhar Karkhana Ltd. & Ors.* reported in 1979 Mh.L.J. 311. In the aforesaid decision, the Division Bench adverted to the erstwhile Rule 6(4) of the Maharashtra Specified Cooperative Societies (Election to Committees) Rules, and reiterated that the scope of the Returning Officer's (now District Election Officer's) power was confined to the scrutiny of inadvertent mistakes or omissions in the voters' list—specifically limited to errors in the name, address, or other basic particulars. The Court held in no uncertain terms that an extensive probe into the eligibility of members exceeded the purview of the Election Officer's authority. That ratio, in the considered opinion of this

Court, applies with full force to the instant matter, leaving no legal ground to interfere with the impugned order passed by the District Election Officer.

6. It follows, therefore, that the petitioner, should he choose to press the issue of membership eligibility or contend that votes were cast by ineligible persons, must seek recourse to the statutory remedies available under the Maharashtra Cooperative Societies Act, 1960. Notably, Section 91 of the said Act provides a mechanism for resolving such disputes. Consequently, it is within the petitioner's domain to invoke the said provision, should he be so advised, for the purpose of challenging the election on grounds that the inclusion or participation of ineligible members has materially vitiated the electoral process.

7. In light of the foregoing discussion, no case for interference is made out under Article 226 of the Constitution of India. Accordingly, the writ petition stands dismissed. There shall be no order as to costs.

(AMIT BORKAR, J.)