

Shabnoor

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

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WRIT PETITION NO.6035 OF 2025

Pruthviraj Anandrav Patil & Ors.	... Petitioners
V/s.	
Taluka Cooperative Election Officer & Assistant Registrar & Anr.	... Respondents

Mr. Drupad S. Patil a/w Mr. Dheeraj Patil for petitioners.

Mr. Bhooshan Mandlik, for respondent No.2.

Mr. Manoj A. patil, for respondent No.3.

Smt. M. S. Bane, AGP for State – respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : MAY 7, 2025

P.C.:

- 1. Rule.** Rule made returnable forthwith.
- 2.** The present petition is directed against the order dated 23rd April 2025 passed by respondent No.1 in exercise of powers under Rule 11 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (hereinafter referred to as “the said Rules”). The said order was passed on Objection No.10690 of 2025, thereby deciding the eligibility of the petitioners to be included in the voters’ list of respondent No.2-society.
- 3.** The factual background leading to the present petition is as

follows: The petitioners are members of respondent No.2-society. Their membership had been questioned in proceedings initiated under Section 11 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as “the said Act”). In the said proceedings, the Authority of first instance rejected the objection filed by the original complainant and held that the petitioners were validly admitted as members of the society. The Appellate Authority thereafter confirmed the said finding. However, in revision, the Revisional Authority took a contrary view and allowed the objection raised by the original complainant, holding that the petitioners were not eligible to continue as members of the society.

4. Aggrieved by the said order dated 7th March 2025 passed in Revision Application No.03 of 2025 by the Joint Registrar, the petitioners filed Writ Petition No.4760 of 2020 before this Court. By order dated 9th April 2025, this Court was pleased to grant interim relief in terms of prayer clause (b), which reads as under:

“b. Pending the hearing and final disposal of the present Writ Petition, the execution, operation, implementation and effect of dated 07.03.2025 passed by Ld. Joint Registrar Co-operative Societies (Dairy), Maharashtra State, Mumbai in Revision Application No. 03 of 2025 being “Exhibit-I” to this Writ Petition be stayed.”

5. A plain reading of the aforesaid interim order passed by this Court makes it clear that the operation and effect of the order dated 7th March 2025 passed by the Joint Registrar, disqualifying

the petitioners from membership of respondent No.2-society, was stayed. As a natural consequence of the said stay, the petitioners continued to remain on record as members of respondent No.2-society.

5. Subsequently, in the course of preparation of the voters' list for the elections of the managing committee, the petitioners raised objections before respondent No.3, seeking inclusion of their names in the voters' list on the strength of the interim relief granted by this Court. Respondent No.3, who was functioning as the Election Officer, proceeded to decide the said objections on merits and recorded a finding that the petitioners were not eligible to continue as members of the society. While doing so, the Election Officer relied on the very same reasons as were assigned by the Revisional Authority in its order dated 7th March 2025, which had already been stayed by this Court.

6. In effect, despite the operation of the stay granted by this Court, the Election Officer bypassed its import and legal effect by observing that the order passed by this Court was "only an interim relief" and further proceeded to adjudicate the objection as though the Revisional Authority's order was still operative. This approach of the Election Officer, in the considered view of this Court, undermines not only the interim protection granted to the petitioners but also the judicial discipline required to be observed by authorities subordinate to this Court. Once the Revisional Authority's order was stayed, any finding based solely on that order could not have been used to negate the petitioners' status as

members for the purpose of preparation of the voters' list.

7. It would be apposite at this juncture to examine the contours of authority vested in the Returning Officer under Rule 11. The Rule, which empowers the Returning Officer to entertain and decide claims or objections in relation to the provisional list of voters, is not an unrestricted charter of adjudication. The Rule, on its plain terms, is confined to addressing omissions or errors pertaining to the name, address, or other particulars as appearing in the provisional list of voters. The Rule is administrative in nature and is to be implemented in a time-bound manner so as to facilitate orderly conduct of elections. The legislative intent reflected in the framing of Rule 11 is to confer a limited power of verification and rectification, not to vest the Returning Officer with adjudicatory powers of civil consequence that could disqualify or extinguish a substantive right of membership or participation in the democratic functioning of the Society.

8. The scope and ambit of a comparable provision, namely Rule 6(1) and 6(4) of the Maharashtra Specified Cooperative Societies Elections to Committees Rules, 1971, fell for consideration before a Division Bench of this Court in *Dhondiba Parshuram Lakde & Ors. v. Someshwar Sahakari Sakhar Karkhana Ltd. & Ors.*, (1979) Mh.L.J. 311. In that case, the Division Bench authoritatively interpreted the Rule as conferring only a limited power to correct clerical or factual mistakes relating to the voters' particulars and held that the Returning Officer cannot enter upon an inquiry which would require a judicial determination or would result in a final pronouncement on membership rights. The Division Bench

further held that such Rules are intended to be applied in a mechanical and ministerial manner, and not for rendering adjudications of disputes affecting civil or legal rights of the concerned persons.

9. The provision of Rule 11 of the 2014 Rules being analogous and *pari materia* to Rule 6(1) of the 1971 Rules, the interpretation accorded by the Division Bench in *Dhondiba Parshuram Lakde* (supra) squarely applies. The Returning Officer, by acting upon the Audit Report and drawing adverse inferences therefrom without notice or enquiry into the legality or propriety of the alleged non-inclusion of names, has clearly transgressed the bounds of authority. The Election Officer is not conferred with any adjudicatory jurisdiction to enter into complex or disputed questions of *eligibility or validity of membership* of persons whose names are reflected in the register of members.

10. This view laid down by the Division Bench in *Dhondiba Parshuram Lakde* has been consistently followed in subsequent judgments of this Court and continues to hold the field. The ratio of the said judgment squarely applies to the facts of the present case, wherein the Election Officer, namely respondent No.3, exceeded the limited jurisdiction available to him under Rule 11 and purported to adjudicate upon the petitioners' eligibility, even when the issue is *sub judice* before this Court and an order of stay had been passed.

11. In addition to the legal limitation on the powers of the Election Officer, it must also be noted that this Court, by its interim

order dated 9th April 2025, had specifically stayed the operation and effect of the order dated 7th March 2025 passed by the Revisional Authority, which had disqualified the petitioners from being members of the society. Once such interim protection was granted by this Court, the Election Officer was duty-bound to act in accordance with the said order. In other words, respondent No.3 could not have acted in a manner that defeated the effect or spirit of the stay order.

12. Instead of mechanically including the petitioners' names in the voters' list in compliance with the interim order, respondent No.3 went into the *merits of the dispute*, which is still pending adjudication before this Court. Such an act is impermissible in law and amounts to overstepping of jurisdiction. Once the petitioners were continued as members by virtue of the stay order, there was no legal justification for denying them their right to be included in the voters' list.

13. In view of the above, the impugned order passed by respondent No.3 rejecting the objection of the petitioners and refusing to include their names in the final voters' list is clearly unsustainable and is hereby quashed and set aside.

14. Respondent No.3 is directed to include the names of the petitioners in the final voters' list of respondent No.2-society and publish the revised final voters' list accordingly, within a period of three days from the date of this order.

15. Rule is made absolute in terms of prayer clauses (a) and (b).

16. The writ petition stands disposed of in above terms.

17. Pending interlocutory application(s), if any, stand disposed of.

(AMIT BORKAR, J.)