

(This judgment is corrected as per speaking to minutes order dated 12.11.2025)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5418 OF 2025

1. Babasaheb Bhimrao Magdum,
Age: 68 years, Occupation: Agriculturist,
R/o Neharu Chouk, Kasaba Sangaon,
Tal-Kagal, Dist: Kolhapur - 416 216.
 2. Malagonda Raygonda Paarvate,
Age: 74 years, Occupation: Agriculturist,
325, Zenda Chowk, Sulkud, Tal - Kagal,
Dist: Kolhapur-416 216.
 3. Pandurang Rau Patil,
Age: 85 years, Occupation : Agriculturist,
1089/1, Arajunnagar Road, Rak Rake Adda,
Sangaon Mouje,
Dist: Kolhapur-416 216.
 4. Vardhaman Ajithnath Chougule,
Age: 50 years, Occupation: Agriculturist,
R/o. Bedkihal, Chikodi Belgaum,
Dist: Karntaka - 591 214.
 5. Kumar Annappa Magdum,
Age: 65 years, Occupation: Agriculturist,
R/o. of Siddheshwar Galli, Bedkihal,
Belgaum, Dist: Karnataka-591 214.
 6. Mahaveer Adagouda Patil,
Age: 59 years, Occupation: Agriculturist,
R/o. 465, Near siddheshwar temple,
Bedkihal, Chikodi Belgaum,
Dist: Karnataka - 591 214.
- ..Petitioners

Versus

1. Union of India,
Through its secretary to
Ministry of Co-operation
New Delhi.
2. Central Registrar,

Office at Ministry of Co-operation
Government of India,
9th Floor, Tower - E,
World Trade Centre, Nauroji nagar,
Delhi-110029.)

3. State of Maharashtra,
Through the Principal Secretary,
Co-operative Department,
Mantralaya, Mumbai.
4. The Co-operative Election Authority,
Ministry of Co-operation,
Government of India,
9th Floor, Tower - E,
World Trade Centre, Nauroji Road,
Delhi-110029.
5. The Returning Officer and District Collector,
Deshbhakta Ratnappanna
Kumbhar Panchaganga,
Sahakari Sakhar Karkhana Ltd..
Ganganagar, Ichalkaranji, Kolhapur - 416116.
6. The Asst. Returning Officer and Dy. Collector,
Deshbhakta Ratnappanna
Kumbhar Panchaganga
Sahakari Sakhar Karkhana Ltd.,
Ganganagar, Ichalkaranji, Kolhapur - 416116.
7. Deshbhakta Ratnappanna
Kumbhar Panchaganga
Sahakari Sakhar Karkhana Ltd.,
Ganganagar, Ichalkaranji, Kolhapur – 416116 ..Respondents

**WITH
WRIT PETITION NO.11038 OF 2025**

1. Deshbhakta Ratnappanna
Kumbhar Panchaganga
Sahakari Sakhar Karkhana Ltd.,
Ganganagar, Ichalkaranji, Kolhapur – 416116
Through Managing Director
Shri. Nandkumar Y Bhore
Age : 71 years, Occu : Agriculturist
R/o Ghar No.63 Ward No.8

Datt Mandir Galli, Arage Mala
Vikram Nagar, Ichalkaranji.

2. Vishal Raghuveer Awati
Age: 34 Years, Occu.: Agriculturist
R/o. Akiwat, Taluka Shirol
District Kolhapur
3. Ravsaheb Bapu Bhagate
Age: 63 Years, Occu.: Agriculturist
R/o. Nandani, Taluka Shirol
District Kolhapur.
4. Mahaveer Shrikant Chougule
Age: 68 Years, Occu.: Agriculturist
R/o. Mankapur, Taluka Nippani
District Belgavi.
5. Sanjay Tatyasaheb Desai
Age: 60 Years, Occu.: Agriculturist
R/o. Sadalga, Taluka Chikkodi
District Belgavi.
6. Prakash alias AnnasoBalku Khobare
Age: 75 Years, Occu.: Agriculturist
R/at Tardal, Taluka Hatkanagale
District: Kolhapur
7. Kumar Bhupal Khul
Age: 73 Years, Occu.: Agriculturist 1
R/at Rui, Taluka Hatkanagale
District: Kolhapur
8. Bapu Bhagoji Mote
Age: 73 Years, Occu.: Agriculturist
R/at Pattan Kodoli,
Taluka Hatkanagale,
District: Kolhapur
9. Pratap Natha Naik
Age: 70 Years, Occu.: Agriculturist
R/at Ghalwad, Taluka Shirol
District Kolhapur
10. P M. tatha Pirgonda Mhadgonda Patil
Age: 75 Years, Occu.: Agriculturist

R/at Kabnur, Taluka Hatkanagale
District: Kolhapur

11. Pramod Pirgonda Patil
Age: 47 Years, Occu.: Agriculturist
R/at Kabnur, Taluka Hatkanagale
District; Kolhapur.
12. Pratap alias Baba Shyamrao Patil
Age: 66 Years, Occu.: Agriculturist
R/at Shirol, Taluka Shirol
District Kolhapur
13. BabasoAnnaso Patil
Age: 69 Years, Occu.: Agriculturist
R/at Hasur Taluka Shirol
District Kolhapur.
14. Ranjana Laxman Nimbalkar
Age: 45 Adult, Occu.: Agriculturist
R/at Herle, Taluka Hatkanagale
District Kolhapur
15. Shobha Ravsaheb Patil
Age: 30 Adult, Occu.: Agriculturist
R/at Nej, Taluka Hatkanagale
District Kolhapur
16. Bhupal Laxman Misal
Age: 49 Adult, Occu.: Agriculturist
R/at Ghosarwad, Taluka Shirol
District Kolhapur
17. Santosh Vishwambhar Mahajan
Age: 50 Adult, Occu.: Agriculturist
R/at Mangaon, Taluka Hatkanagale
District Kolhapur
18. Dhangonda Balgonda Patil
Kothali V. K. S. Seva Society Ltd
Kothali
Having office at Kothali
Taluka Shirol District Kolhapur.

..Petitioners

Versus

1. Union of India,
Through its secretary to
Ministry of Co-operation
New Delhi.
 2. Central Registrar,
Office at Ministry of Co-operation
Government of India,
9th Floor, Tower - E,
World Trade Centre, Naurojinagar,
Delhi-110029.
 3. State of Maharashtra,
Through the Principal Secretary,
Co-operative Department,
Mantralaya, Mumbai.
 4. The Co-operative Societies Election] Authority,
Ministry of Co-operation,
Government of India,
9th Floor, Tower - E,
World Trade Centre, Nauroji Road,
Delhi – 110029.
 5. The Returning Officer and
District Collector,
Deshbhakta Ratnappa
Kumbhar Panchaganga,
Sahakari Sakhar Karkhana Ltd.,
Ganganagar, Ichalkaranji,
Kolhapur - 416116.
 6. The Asst. Returning Officer and
Dy. Collector,
Deshbhakta Ratnappa
Kumbhar Panchaganga,
Sahakari Sakhar Karkhana Ltd.,
Ganganagar, Ichalkaranji,
Kolhapur - 416116.
- ..Respondents

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Advocate for the Petitioners : Mr. Surel Shah, Senior Counsel i/b Mr.
Shubham N. Shinde (through VC)

AGP for Respondent/State : Mr. S.D. Rayrikar

Advocate for Respondent No.7 in WP/5418/2025 & Petitioner in
WP/11038/2025 : Mr. Drupad S. Patil a/w Mr. Dheeraj Patil and Mr.
N.B. Patil

Advocate for Respondent No.1/UOI : Mr. Pravind Faldesai, Deputy
Solicitor General of India a/w Mr. Shivraj Jagadale

Advocate for Intervenors : Mr. S.S. Patwardhan a/w Mr. Chetan G.
Patil i/b. Mr. Bhushan S. Jadhav

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 15th OCTOBER, 2025.

PRONOUNCED ON : 06th NOVEMBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith and heard finally with consent of parties.
2. The present writ petitions takes exception to order dated 03.04.2025 passed by Co-operative Election Authority/respondent no.4 under Section 45 K(1) of Multi-State Co-operative Societies Act, 2002 (for short 'Act of 2002'), thereby disapproving election of respondent no.7/society on the ground that bye-laws on the basis of which elections were conducted are inconsistent with Act and Rules framed thereunder.
3. The respondent no.7 is a registered Multi-State Co-operative Society. Since elections of society were due, a communication was made to Chairperson for conducting election of respondent no.7/society. The respondent no.4/authority appointed District Collector as Returning Officer for elections. On 05.12.2024, Returning Officer was pleased to publish election program. On 17.12.2024, Resident Deputy Collector and Assistant Registrar of

Cooperation was appointed as Assistant Returning Officer. On 27.12.2024, Returning Officer published provisional list of members/delegates eligible for voting. On 04.01.2025, final list of voters was published. From 06.01.2025 to 09.01.2025, total 104 nomination forms were received. On 10.01.2025, scrutiny of nominations was undertaken, in which 48 nominations were rejected by Returning Officer. On 11.01.2025, 24 members withdrawn their nominations, whereas 15 double nominations were found. As such, final list of 17 valid candidates published. Since total number of seats to be elected were 17 same as candidates remained in final list, elections were considered unopposed. Eventually, Returning Officer sent Form under Rule 19-M (1)(14) for approval for declaration of election result to authority. However, respondent no.4/Election Authority passed impugned order dated 03.04.2025.

4. Mr. Surel Shah, learned senior advocate appearing for petitioners would submit that impugned order has been passed by authorized signatory on behalf of Co-operative Election Authority. The reply filed by Election Authority is not accompanied by actual decision of Authority. There is nothing on record to show that authorized signatory issued impugned communication as per directions issued by Election Authority. Therefore, impugned order is *ultra-vires*. He would further submit that in present case, number of valid nominations did not exceed candidates to be elected. In that

sense, it was uncontested election, therefore, in terms of Rule 19-M, Returning Officer has to forthwith declare results, which may be subject to approval of Authority. The approval by Authority in present case was a mere formality, unlike contested elections. The approval in present case was only administrative exercise. The Authority under garb of approval cannot act as an Appellate Authority and substitute its opinion with that of the decision of Returning Officer. He would, therefore, urge that impugned order, disapproving election with further declaration that bye-laws are inconsistent with Act and Rules framed thereunder is *ultra-vires*. According to Mr. Shah, although impugned order declares bye-laws of society to be unsustainable, no specific inconsistency between bye-laws and provisions of Act and Rules has been specified. Unless bye-laws are declared inconsistent to provisions of Act and Rules by competent authority, Election Authority has no jurisdiction to delve into validity of bye-laws and disapprove elections of society held in pursuance of bye-laws. Bye-law No.31-A (4)(10) provides for Proposer and Secunder to be supplier of sugarcane for a particular period. The bye-laws framed by society under Section 10 and 11 of the Act were approved by Central Registrar. The bye-laws were sent for perusal of Authority when he directions for conduct of elections were solicited. Even representation dated 29.11.2024 submitted by society was accompanied with copy of

bye-laws. Eventually, Authority appointed Returning Officer without demur.

5. Mr. Shah would further submit that rejection of nomination was never explicitly challenged by aggrieved candidates although remedy against rejection of nomination was available under Section 84 of the Act. As per Sub-section (c) of Section 85, such dispute could have been raised within a period of one month. No such dispute was raised within time stipulated. The Election Authority had no jurisdiction to delve into validity of bye-laws or rejection of nomination owing to disqualification of Proposer or Secunder in terms of bye-laws.

6. In support of his contention, Mr. Shah relied upon observations of Hon'ble Supreme Court in cases of *Vidyadevi Navalkishore Bhartia Vs. Land Acquisition Officer and Another*¹, *Sambha s/o Gangaram Pikale Vs. The State of Maharashtra and Others*² and *Kishor Gangadhar Patil Vs. State of Maharashtra and Others*³.

7. Per contra, Mr. Pravin Faldesai, Deputy Solicitor General of India as well as Mr. Shriniwas S. Patwardhan, learned advocate appearing for intervenors supports impugned order. It is their contention that nominations of candidates were rejected by Assistant

1 (2003) 5 SCC 83.

2 1996 (2) Mh.L.J. 182.

3 2002 (2) Mh.L.J. 217.

Returning Officer, who had no authority to scrutinize nomination, unless Returning Officer is unavoidably prevented from performing said function. Admittedly, Returning Officer has not explained circumstances preventing him from performing job of scrutiny of nominations. The nominations of almost 48 candidates were rejected by giving stereotype reason that Proposer and Secunder are not compliant with conditions under bye-laws requiring them to supply sugarcane for atleast four years out of five years preceding date of election. The number of valid nominations for elections was brought down to magical figure of 17 i.e. number of members to be elected on Managing Committee. All those nominations were virtually of members of erstwhile Managing Committee and safe passage was made for them to get elected without contest. The bye-laws of sugar factory are clearly in conflict with provisions of Act of 2002 and Rules framed thereunder. The Central Registrar had issued multiple circulars calling upon Multi-State Co-operative Societies to amend their bye-laws so as to bring them in consonance with provisions of Act and Rules. The Circulars clarified that in case of conflict, provisions of Act and Rules shall prevail over bye-laws.

8. The election authority is bestowed with powers akin to Central and State Election Commissions. Section 45-L of the 2002 Act empowers Election Authority to issue necessary directions to ensure free and fair elections of Multi-State Co-operative Societies. Rule 19-

M (14) of Rules mandates prior approval of Election Authority before declaration of election results. The Authority can ratify, confirm, assent, sanction or consent to some act of Returning Officer or in given case can record its dissent and issue further directions for conducting fair elections. In support of their contentions, they rely upon the observations of Hon'ble Supreme Court in case of ***Babaji Kondaji Garad Vs. Nasik Merchants Co-operative Bank Ltd and Others***⁴, observations of the Division Bench of this Court in cases of ***Shantilal Amolakchand Burad and Others Vs. Vijay Ramji Pawar and Others***⁵, ***State of U.P. and Others Vs. Daulat Ram Gupta***⁶, ***Blue Haven Co-operative Housing Society Ltd and Another Vs. State of Maharashtra and Others***⁷, ***Sant Lal Gupta and Others Vs. Modern Cooperative Group Housing Society Limited and Others***⁸ and ***Vijay S. Sathaye Vs. Indian Airlines Limited and Others***⁹.

9. Having considered submissions advanced by learned advocates appearing for respective parties and on perusal of material tendered into service, this Court is required to examine following contentious issues :

- (i) What are the contours of powers of Co-operative Election Authority while approving return of results of

4 (1984) 2 SCC 50.

5 1986 Mh.L.J. 713.

6 (2002) 4 SCC 98.

7 (2023) 4 Bom. C.R. 149.

8 (2010) 13 SCC 336.

9 (2013) 10 SCC 253.

election under Rule 19-M (14) of the Multi-State Co-operative Societies (Amendment) Rules, 2023?

(ii) Whether Co-operative Election Authority can disapprove election conducted as per bye-laws of society, citing reason of inconsistencies of approved bye-laws with Act and Rules?

(iii) Whether bye-laws of respondent no.7/Multi-State Co-operative Society, which are approved by Central Registrar can be declared as invalid by Co-operative Election Authority while approving return of election results?

(iv) Whether impugned order disapproving election of respondent no.7/Society and further directions is sustainable in law ?

10. Perusal of impugned order depicts that authority examined format 'M' under Rule 19-M (1) submitted by Returning Officer under MSCS Rules. The authority noted large number of rejections of nominations while examination of recommendations in exercise of powers under Rule 19-M (14). Eventually, called details of nominations accepted and rejected by Returning Officer. Out of 104 nominations received, 48 nominations were rejected, 15 nominations were doubled and 24 nominations were withdrawn. The Authority

then called clarification from Returning Officer, who submitted report dated 04.03.2025, which states that qualifications for contesting election under Bye-law No.29(A) stipulates that candidate must have supplied for crushing his entire cane or cane requisitioned by Karkhana. Similarly, Bye-law No.31-A (4) (10) prescribes qualification for contesting candidates, Proposer and Secunder which requires that candidate, Proposer and Secunder must have registered and supplied for crushing their entire cane or cane requisitioned by the Karkhana under Bye-law No.18(A) for atleast four years out of five years preceding to year of election. The aforesaid condition was relaxed by Returning Officer vide letter dated 04.03.2025 and instead of four years out of five years preceding to the year of election, condition was read as “two seasons out of remaining three seasons proceeding to the year of election” in case of Proposer and Secunder. The Authority was of the view that imposing additional requirement of product and services for Proposer and Secunder, even if forming part of Bye-Laws, was inconsistent with MSCS Act and Rules and opined that role of Proposer and Secunder is for the purpose of identification of candidate, therefore, condition to supply of product and services equivalent to that of candidate cannot be fastened. Since additional qualifications to Proposer and Secunder creates certain type of restrictions and does not facilitate free and fair polls, election may be reconvened from the stage of inviting nominations afresh in

which there shall not be any additional condition for Proposer and Secunder for supply of product and services equivalent to contesting candidates. The Proposer and Secunder must be a member only and shall not be disqualified being member as per Section 29 of MSCS Act, 2002. The authority has, therefore, directed to publish revised election program from the stage of issuance of filing of nomination form.

11. The reasoning adopted by Authority in impugned order would depict that reason for disapproval emerge in Bye-law No. 31A (4) (10) which was applied at the scrutiny of nominations resulting into rejection of nominations, which were found non-compliant with qualifying criteria prescribed for contesting candidate, proposer and secunder.

12. It is not in dispute that bye-laws can be framed under Section 10 and 11 of Act of 2002. Section 10 (2)(zj) prescribes bye-law may provide for minimum level of services, to be used by its members. Section 10 (2) (zk) empowers society to frame bye-laws for any other matter which may be prescribed. It is, therefore, evident that society can frame bye-laws, which are consistent with provisions of Act and Rules. The purpose of providing bye-laws is to enable members who form a society to frame additional Rules for governance of society. Every Co-operative Society may have requirements to frame bye-laws,

which would suit its purposes including providing for disqualifications and qualifications in election of the society. Further, there is statutory safeguard. The bye-laws are to be approved by Registrar, who can examine whether such bye-laws are repugnant to Act or Rules and then grant approval. Unless additional qualifications so prescribed under bye-laws are contrary to spirit of Act and Rules, there is no reason for Registrar to disapprove the same. As such, once bye-laws as approved by Registrar are at place and elections are conducted in deference to approved bye-laws, Election Authority in exercise of powers under Rule 19-M (14) would not be justified to delve into validity of bye-laws or declare them to be inconsistent with Act and Rules.

13. Section 45-I of Act of 2002 prescribes functions of Authority, which includes function to conduct elections of Multi-State Co-operative Society, supervise, direct and control matters relating to preparation of electoral rolls and other functions as may be prescribed. Section 45-L further prescribes that Authority may issue a general or special order directing board or members of society, necessary for conduct of free and fair elections. Further, Rules of 2023 prescribe that authority can appoint Returning Officer or Assistant Returning Officer to be competent to perform any function of Returning Officer. The Returning Officer is expected to conduct elections and finally prepare return of results of polling and declare

results with prior approval of Authority. If scheme emerging from provisions of Act and Rules, thereby prescribing powers of Election Authority is considered, it is not discernible that Election Authority can delve into validity of polls and refuse approval to election citing reason of inconsistency of bye-laws with provisions of Act and Rules.

14. In case of **Vidyadevi** (supra) while considering provisions of Section 11(1) of Land Acquisition Act, particularly term 'approval', reference given to definition as found in Blacks Law Dictionary Sixth Edition, it has been accordingly observed thus:-

“we are of the opinion that this is only an administrative power which limits the jurisdiction of the authority to apply its mind to see whether the proposed award is acceptable to the Government or not. In that process for the purpose of forming an opinion to approve or not to approve the proposed award the Commissioner may satisfy himself as to the material relied upon by the Collector but he cannot reverse the finding as if he is an Appellate Authority for the purpose of remanding the matter to the Collector as can be done by an Appellate Authority; much less the Commissioner exercising the said power of prior approval give directions to the statutory authority in what manner he should accept/appreciate the material on record in regard to the compensation payable. If such a power of issuing direction to the Collector by the Commissioner under the provision of law referred to hereinabove is to be accepted then it would mean that the Commissioner is empowered to exercise the said power to substitute his opinion to that of the Collector's opinion for the purpose of fixing the compensation.”

15. In yet another judgment in case of **Sant Lal Gupta** (supra), Hon'ble Supreme Court observed that approval means confirming, ratifying, assenting, sanctioning or consenting to some act or thing

done by another. The very act of approval means, act of passing judgment, use of discretion, and determining as an adjudication therefrom unless limited by context of the statute. If aforesaid exposition of law is applied to present case, in light of scheme under Act of 2002 and Rules framed thereunder, it is difficult to hold that Election Authority can disapprove elections already held as per bye-laws approved by Competent Authority, more particularly citing reason of inconsistency of bye-laws.

16. Pertinently in present case, rejection of nomination or dispute as to election was not raised by intervernors or any other candidate whose nomination was rejected. Except making representation, there was no explicit challenge to rejection of nomination. The bye-laws on the basis of which elections are held are also not independently challenged before Competent Authority. In that view of the matter, authority under garb of exercising function of approving bye-laws could not have ventured into validity of bye-laws and validity of rejection of nominations based on qualifying criteria mentioned therein.

17. It cannot be disputed that society is empowered to frame bye-laws and prescribe additional qualification in respect of entitlement of membership or additional qualifications for being entitled for elections as Director, of course, subject to condition that such bye-

laws are not inconsistent with Act and Rules. The bye-laws are integral part of Rules for administration of societies and they are binding on members of the society. If members of society thought it fit that Proposer and Secunder or person who is seeking to elect as Director must avail services of society for minimum prescribed period, there cannot be hindrance upon society to incorporate such bye-laws. It is true that restrictions imposed under bye-laws are in addition to qualifications prescribed under Act and Rules. However, those are not inconsistent. The impugned order nowhere highlights or stipulates particular inconsistencies of bye-laws with Act or Rules.

18. Mr. Patwardhan, learned advocate appearing for the intervenors would submit that onerous requirement in imposing bye-laws for candidates or Proposer and Secunder of supplying sugarcane for at least four out of five preceding years is incompatible with provisions of Act and Rules. However, he did not point out specific incompatibility. In this background, this Court is not in a position to countenance with reasons adopted by Authority in impugned order for declining to grant approval.

19. The Authority established under Section 45 of the Act of 2002 for carrying out functions contemplated under Section 45-I definitely possess powers to issue directions for conduct of free and fair elections. However, once Election Authority appoints Returning

Officer and issues directions for conduct of elections and if such elections are conducted in terms of approved bye-laws of society, it cannot be accepted that at the time of considering report of Returning Officer for approval to the elections, question as to validity of bye-laws can be looked into by Election Authority. If Election Authority has reservations about bye-laws, which are submitted at the time of seeking directions to conduct elections, Authority may issue directions to amend the bye-laws, if those are repugnant to Act and Rules. However, on conclusion of elections on the basis of bye-laws, under garb of approval, Authority cannot upset election. At this stage Authority can merely look into manner of election conducted by Returning Officer, procedure adopted by him and fairness of election process that started from stage of appointing Returning Officer till submission of the return of polling. The Election Authority cannot go behind stage of appointment of Returning Officer while considering grant of approval.

20. In result, writ petitions succeeds and allowed in terms of prayer clause (B).

21. Rule is made absolute in above terms.

(S.G. CHAPALGAONKAR, J.)

22. Mr. Chetan Patil, learned counsel appearing for applicants/respondents submits that effect of order passed by this

Court may be kept in abeyance for a period of four weeks, since Intervenor/Respondent may challenge order before Hon'ble Supreme Court.

23. Learned counsel appearing for Petitioners seriously opposed prayers.

24. In light of submission advanced and conspectus of matter, operation and implementation of order passed in Writ Petitions shall be kept in abeyance for a period of four weeks.

(S.G. CHAPALGAONKAR, J.)