

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

**WRIT PETITION NO.13004 OF 2024**

Amit Manik Kalbhor & Ors.

....Petitioners

V/S

The District Election Officer @

District Dy. Registrar & ors.

....Respondents

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**Mr. Abhijit B. Kadam** with Ms. Sonali G. Sase and Mr. Ashish Chawan *for the Petitioners.*

**Mr. Dilip Bodake** *for Respondent Nos.1 and 4.*

**Mr. S.S. Patwardhan** i/b Mr. Chetan R. Nagve *for Respondent No.2/Society.*

**Ms. Sulbha D. Chipade, AGP** *for Respondent Nos.3 and 5/State.*

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**CORAM: SANDEEP V. MARNE, J.**

**DATE : 29 JANUARY 2025.**

**P.C.:**

1. The Petition challenges order dated 16 August 2024 passed by District Co-operative Election Officer and District Deputy Registrar, Co-operative Societies, Pune (Rural) rejecting the objection raised by the Petitioners to the provisional voters list.

2. In the previous round of litigation this Court had found fault with a provisional list of voters which was apparently prepared on the basis of audit report and not on the basis of the Membership Register in Form-I. This Court therefore directed the Election Officer to prepare a fresh list of voters on the basis

of Membership Register in Form-I. Accordingly the Membership Register in Form-I was produced before the Election Officer which was found to be a mere computer printout and not the Register as contemplated under the provisions of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**). Petitioners objected to the provisional list of voters prepared on the basis of computerised printout of Membership Register produced by the Society. Their objection has been rejected by the impugned order dated 16 August 2024.

3. When this Petition came up for hearing on 18 November 2024 this Court noticed a unique conundrum where the Society was mandated to prepare voters list as per membership Register in Form I, but it had failed to maintain Membership Register in Form-I as per requirement of the MCS Act. With a view to resolve the dispute with regard to inclusion of names of 306 missing members in the provisional list of voters, this Court suggested rather unusual course of action by its order dated 18 November 2024 by granting an opportunity to the said 306 members to remain present before the Society and to produce necessary documents to demonstrate their membership. The order passed by this Court on 18 November 2024 reads thus:

“1. Heard.

2. The dispute in the present case appears to have been raised by the Petitioners on behalf of 306 persons whose names are not included in the provisional voters list. Admittedly, the Petitioners who are 3 in number have been included in the provisional voters list.

3. Mr. Patwardhan, learned counsel appearing for the Respondent-Society submits that there was default on the part of Society in maintaining the records and the persons claiming to be members were called upon to produce evidence to demonstrate that they were members of the Society, which exercise was carried out and as far as these 306 persons are concerned, as no documents were produced their names were not included in Register "I" and "J", as mandated.

4. Upon a query by this Court as to whether the persons whose names have not been included and on whose behalf the present petition has been filed can submit documents to the Society so that necessary action can be taken based on the documents for the purpose of considering their membership, Mr. Patwardhan, on instructions, would agree.

5. Let the persons claiming to be the members of Respondent No.2-Society and whose names are at page no.73 to 82 to the petition and who are original objectors before the State Election Officer, produce necessary documents before the Respondent No.2-Society to demonstrate their membership within a period of two weeks from today. The Respondent No.2-Society to consider the same within a period of one week thereafter.

6. List on 9th December 2024.

4. It appears that in pursuance of order passed by this Court on 18 November 2024, the Society addressed letters to the said alleged 306 members and also published the notices in the local newspapers. It appears that not a single person turned up before the Society to prove his/her membership. The Petition was sought to be moved before this Court on 9 December 2024 complaining that the said 306 persons could not prove their membership as the Society's office was found to be closed. This Court passed following order on 9 December 2024:

“1. By order dated 18th November 2024, this Court had directed the persons who are claiming to be members of

Respondent No.2-Society to produce necessary documents before the Respondent No.2-Society to demonstrate their membership and the matter was listed today. Today, Mr. Kadam, learned counsel appearing for the Petitioner would submit that the documents were not produced before the Respondent No.2-Society for the reason that the office of Society was closed and an application was moved before the Respondent No. 3 and documents were produced before the Respondent No.3.

2. The order of 18<sup>th</sup> November 2024 is very clear. The Petitioners were directed to produce necessary documents before the Respondent No. 2- Society. In event of any difficulty in producing the documents before the Respondent No.2-Society, it was open for the Petitioners to approach this Court and seek necessary directions to the Respondent No.2-Society. Instead of doing the same, the Petitioners have waited till 9<sup>th</sup> December 2024 to raise this grievance before this Court and now seek urgent listing of the matter. In view of the conduct of Petitioners, this Court is not inclined to consider the urgent hearing of this petition. List on 7th January 2025.”

5. Till date, no Affidavit is filed on record contending that any of the 306 persons approached the office of the Society on a particular date or that the office was found to be closed. As of now, this Court has not found any material for the purpose of recording the finding of fact that the Society has declined an opportunity of proving membership to any of the said 306 persons. So far as Petitioners are concerned, who are holding brief on behalf of the said 306 persons, they are already members of the Society and are not even contesting the elections. It is unbelievable that the Petitioners, who are litigating before this Court with regard to non inclusion of names of 306 persons, have not even taken pains to contact a single person to make him

present before the Society to prove his/her membership. In the meantime the election programme has progressed which was published on 25 January 2025. As of today the election programme is at the stage of scrutiny of the nominations. It would be therefore too late in a day to now intervene in the election programme. If the Petitioners are aggrieved by the result of the elections, they would not be rendered remediless as they can always file a dispute under section 91 of the MCS Act and under Rule 78 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014. Writ Petition is accordingly **disposed of.**

6. Needless to say that while deciding the election dispute, nothing observed by this Court in any of the orders passed in the present Petition would come in the way of dispute being decided on its own merits. Contentions of all the parties on the merits are kept open.

**(SANDEEP V. MARNE, J.)**

SUDARSHAN  
RAJALINGAM  
KATKAM

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by SUDARSHAN  
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