

VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4837 OF 2025

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Maruti Chandrappa More & Ors.

... Petitioners

V/s.

The District Deputy Registrar,

Cooperative Societies, Kolhapur & Anr.

... Respondents

Mr. Ruturaj Pawar for the petitioners.

Ms. Kavita N. Solunke, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : APRIL 9, 2025

PC.:

1. The petitioners, by the present writ petition filed under Article 226 of the Constitution of India, challenge the legality and validity of the order passed by the Returning Officer in exercise of powers under Rule 8 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (hereinafter referred to as "the said Rules"). *The order impugned pertains to preparation and finalisation of the provisional voters list for the purpose of conducting election to the managing committee of the concerned Co-operative Society.*

2. It is pertinent to note that the Division Bench of this Court, in the case of *Dhondiba v. State of Maharashtra*, 1979 Mh.L.J. 311, has considered the scope of inquiry by the Returning Officer under

the then prevailing Rules 6(1) and 6(4) of the Maharashtra Specified Co-operative Societies Election to Committee Rules. It was held therein that the inquiry contemplated is of a limited and summary nature, being mechanical and microscopic. Upon a comparative reading, it is evident that the language of present Rule 8 is in *pari materia* with the earlier provisions, and therefore, the law laid down by the Division Bench in *Dhondiba* (supra) would squarely govern the present controversy. The Returning Officer, while scrutinizing the nomination papers and voters' list, is not expected to undertake an elaborate inquiry or adjudicate upon disputed questions of membership. The scope of the inquiry is confined to ascertainment of clear and undisputed facts on record regarding names and addresses etc.

3. The principal contention raised on behalf of the petitioners is that their names have been illegally omitted from the voters' list, despite they being members of the Society prior to the publication of the preliminary voters' list. According to the petitioners, the Society, without adhering to the mandatory procedure prescribed under the Maharashtra Co-operative Societies Act, 1960 (for short "the Act") and the Rules framed thereunder, purportedly removed their names from the membership register. It is contended that the procedure for expulsion of a member is governed by Section 35 of the Act, read with Rules 28 and 29 of the said Rules. The law mandates that the resolution passed by the general body for expulsion of a member must be forwarded to the Registrar and becomes effective only upon approval by the Registrar in exercise of statutory powers under the said Rules. In absence of such

approval, the resolution for expulsion remains inchoate and unenforceable. Reliance has been placed on the judgment of the Division Bench of this Court in *Bhaskar Laxman Rane v. Shri Gurudev Nityanand Co-operative Housing Society*, 1998 (3) Mah. L.J. 127, wherein it was categorically held that expulsion without following due process of law is void and cannot affect the rights of a member.

4. However, in my considered view, the scope of the present writ petition is confined to examining the legality and validity of the order passed by the Returning Officer under Rule 8 of the said Rules. The Returning Officer's jurisdiction is circumscribed by the provisions of the Rules and does not extend to adjudicating intricate disputes relating to membership, which require a detailed factual inquiry. The grievance raised by the petitioners regarding the alleged illegal removal from membership and consequent exclusion from the voters' list involves disputed questions of fact which cannot be conveniently undertaken by the returning officer. The appropriate remedy available to the petitioners is to challenge the voters' list before the Division Bench by invoking the jurisdiction under Article 226 or by filing an election petition in accordance with law, as may be permissible. Therefore, without expressing any opinion on the merits of the petitioners' contention, I am of the view that it is not possible to grant any relief in the present proceedings.

5. In view of the aforesaid, and keeping all contentions raised by the petitioners open to be agitated before the appropriate forum, the present writ petition is disposed of with liberty to the

petitioners to adopt such remedies as may be available to them in law. There shall be no order as to costs.

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

(AMIT BORKAR, J.)

Note: This order is modified as per order dated 15 April 2025.