

Shabnoor

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

WRIT PETITION NO.6360 OF 2025

SHABNOOR
AYUB
PATHAN
Digitally signed by
SHABNOOR AYUB
PATHAN
Date: 2025.05.09
14:47:00 +0530

Kai Bhagwant Shelar Bigar Sheti
Gramin Sahakari Patsanstha Ltd.

Through Chairman

V/s.

The State of Maharashtra & Ors.

... Petitioner

... Respondents

Mr. Yuvraj S. Gharat for petitioner.

Mr. Dilip Bodake for respondent Nos.2 and 3.

Mr. Dheeraj Patil i/b Mr. Rishikesh A. Mohite for
Respondent Nos.4 to 18.

Mr. Sanjay D. Rayrikar, AGP for State – respondent
No.1.

CORAM : AMIT BORKAR, J.

DATED : MAY 9, 2025

P.C.:

1. The present writ petition under Article 226 of the Constitution of India assails the legality and propriety of an order passed by the Returning Officer in purported exercise of powers under Rule 11 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (hereinafter referred to as “*the 2014 Rules*”). The grievance of the petitioner, succinctly put, is that the Returning Officer has transgressed the boundaries of the jurisdiction statutorily vested in him, and has entered into an adjudication touching upon the eligibility of a person to be

included or retained in the voters' list — a jurisdiction which, in law, he does not possess.

2. The statutory framework governing the preparation of electoral rolls under the co-operative societies legislation is neither ambiguous nor expansive. The scope of powers under Rules 6(1) and 6(4) of the Maharashtra Specified Co-operative Societies Elections to Committees Rules, 1971 — provisions *pari materia* to Rule 11 of the 2014 Rules — came up for authoritative construction before a Division Bench of this Court in *Dhondiba Parshuram Lakde and Others v. Someshwar Sahakari Sakhar Karkhana Ltd. and Others*, reported in (1979) Mh.L.J. 311.

3. The Division Bench in that case lucidly held that the power conferred under Rule 6 is narrowly tailored to enable the Returning Officer to carry out ministerial corrections and to rectify clerical or typographical errors in names, addresses, or other particulars as they appear in the provisional voters' list. It is emphatically not a power to decide intricate disputes involving adjudication of civil rights, nor is it a quasi-judicial function involving the determination of complex questions of law or fact. The function of the Returning Officer at this stage is essentially *administrative* — akin to certifying correctness in voter particulars and ensuring that the voter list reflects the record as maintained by the Society and its Registering Authority.

4. Tested on the anvil of the above judicial pronouncement, the impugned order passed by the Returning Officer is found to be within the limited scope permitted under Rule 11 of the 2014

Rules. The objections raised by the petitioner were of such a nature as to require adjudication on the eligibility of a person qua membership or entitlement to vote — matters which lie beyond the mechanical and administrative jurisdiction of the Returning Officer. Once the Returning Officer had before him the members' register and the list of eligible voters as certified by the society in accordance with its records, his function was to incorporate corrections, if any, with respect to particulars, and not to enter into controversies that bear upon legal entitlements or disputed facts.

5. To countenance such adjudicatory intervention at the hands of a Returning Officer would not only be contrary to the rule-making intent but would render the electoral process susceptible to derailment on preliminary objections, defeating the larger statutory purpose of ensuring expeditious and fair elections to cooperative societies.

6. It is settled law that elections to cooperative societies, once notified, must be allowed to proceed uninterrupted, and any challenge to the conduct of elections, the inclusion or exclusion of names, or the validity of voter eligibility must be pursued in the manner provided by the Act — typically, by way of an election petition under Section 91 of the Maharashtra Cooperative Societies Act, 1960 or to approach this court under Article 226 challenging Final List of voters, if the facts justify so. The remedy so provided is comprehensive, efficacious, and structured to secure adjudication through a judicial forum.

7. Accordingly, liberty is reserved to the petitioner to avail appropriate legal remedy for ventilation of his grievance, if so advised, in accordance with law.

8. This Court finds no jurisdictional error or perversity in the order passed by the Returning Officer which would warrant interference under Article 226 of the Constitution of India. The writ petition is, therefore, liable to be dismissed.

Order:

(i) The writ petition stands dismissed.

(ii) It is, however, clarified that the dismissal of this petition shall not preclude the petitioner from taking recourse to appropriate legal remedy .

(iii) No order as to costs.

(AMIT BORKAR, J.)