



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.1433 of 2025

Pramod Laxmanrao Aware and others

vs.

*The District Co-operative Election Officer/
District Deputy Registrar of Cooperative Societies, Amravati and others*

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. S.M. Vaishnav, Advocate for the Petitioners.
Ms. Deepali Sapkal, A.G.P. for Respondent Nos.1 & 2.
Mr. Tejas Deshpande, Advocate for Respondent No.3.
Mr. N.A. Gawande, Advocate for Respondent No.4.*

CORAM : **ANIL L. PANSARE, J.**

DATE : **5th APRIL, 2025.**

01. On 17/03/2025, the following order was passed :

"Heard.

2. *The Division Bench of this Court in the case of Dhondiba Parshuram Lakade V/s Shri Someshwar Sahakari Sakhar Karkhana Ltd., 1979 Mh.L.J. 311, while dealing with the scope of enquiry under Rule 6(1) of the Maharashtra Specified Co- operative Societies Elections to Committees Rules, 1971 (for short, 'the Rule of 1971'), which is pari materia Rule 8 (1) of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014 (for short, 'the Rules of 2014'), held as under :*

"43. Thus, under Rule 6(1), all that the Collector is entitled to, and permitted to do is to ensure the identity of the voter concerned, and if per chance, the identity is not sufficiently established in the provisional voters' list to take steps within the ambit of Rule 6(1) to see that it is. There is nothing in Rule 6(1) which empowers the Collector to hold a detailed enquiry, as was done in the instant case, whether a person is qualified to be on the Register of Members, and if not to delete his name from the provisional list of voters. Under

Section 38(2) of the Societies Act, the Register of Members is prima facie evidence of membership. It is not open to the Collector to upset that Register by holding an inquiry under Rule 6(1), which contemplates a very summary inquiry, confined only to the aspects set out in that rule and nothing else.”

3. *The above finding is rendered in view of enquiry provided under Rule 6(1) of the Rules of 1971, which is pari materia Rule 8(1) of the Rules of 2014, which reads as under :*

“8. Claims and objections to the provisional list of voters and the final list of voters for co-operative societies having individuals members(1) When the provisional list of voters is published for inviting claims and objections, any omission or error in respect of name or address or other particulars in the list may be brought to the notice of the concerned District Co-operative Election Officer or Taluka or Ward Co-operative Election Officer in writing by any member of the society during office hours within ten days from the date of publication of the provisional list of voters.

(2) x x x

(3) x x x

(4) x x x.”

As could be seen, when the provisional list of voters is published for inviting claims and objections, any omission or error in respect of the names or address or other particulars in the list is to be brought to the notice of the concerned Election Officer.

4. *Thus, it is evident that the omission or error should be in relation to the names and address or other particulars mentioned in the provisional list. In other words, the objection as regards eligibility of members is not open for enquiry under Rule 8 of the Rules of 2014.*

5. *In the present case, however, the Respondent No.1 has commented on eligibility of the Petitioners to become members of the Society, and accordingly, ordered to delete their names from the final list. The Respondent No.1 observed that the Petitioners had not satisfied the*

criteria to become members of the Society, and therefore, their names should be deleted. The said finding is challenged on the ground that it runs contrary to the Rule 8 of the Rules of 2014, so also the law laid down by the Division Bench of this Court in Dhondiba's case (supra).

6. *Issue notice to the Respondents, returnable on 27th March, 2025.*

7. *Ms. Sapkal, the learned AGP waives service of notice on behalf of the Respondent Nos.1 and 2.*

8. *In addition to regular mode of service, the Petitioners shall serve the Respondent Nos.3 to 6 by all permissible modes, including service by Speed Post and file affidavit of service.*

9. *The Respondent No.1 shall not publish election programme, if it is not so published.*

10. *The learned AGP shall communicate the order to Respondent No.1 and all concerned shall act upon the authenticated copy of this order."*

02. In response, the learned A.G.P. has filed reply-in-affidavit thereby trying to justify the order, but without uttering a word about the judgment referred to by this Court in order dated 17/03/2025. In other words, in the reply, respondent Nos.1 and 2 have not dealt with as to how under Rule 8 of Rules of 2014, respondent No.1 could comment on the eligibility of the petitioners to become members of the society. Thus, the order passed by respondent No.1 runs contrary to the law laid down by this Court in Dhondiba Lakade's case (supra). The order impugned is unsustainable.

03. The petition is allowed accordingly. The order passed by the District Cooperative Election Officer, Amravati-respondent No.1 on 07/03/2025 is hereby quashed and set aside. There shall be no order as to costs. Consequences to follow.

(Anil L. Pansare, J.)