



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

Writ Petition No. 3048 of 2025

Shri Purushottam S/o Ganpati Rechankar,
Aged 45 yrs., Occupation : Agriculturist,
R/o adegoan, Tahsil Gond Pimri,
District Chandrapur.

... Petitioner

- Versus -

- (1) Returning Officer cum District Deputy
Registrar Co-operative Societies,
Chandrapur, Tahsil & Distt. Chandrapur.
- (2) Shri Ulhas S/o Nagorao Karpe,
Aged 63 yrs., Occupation : Agriculturist,
R/o Gandhi Chowk, Gond Pipari,
Post Gond Pipari,
Tahsil & District Chandrapur.
- (3) The State Co-operative Election
Authority, Pune, through its
Commissioner, Central Building,
Pune.
- (4) The Chandrapur District Central
Co-operative Bank Ltd. Chandrapur,
through its Chief Executive Officer,
Civil Lines, Main Road, Chandrapur,
Tahsil & District Chandrapur.

... Respondents

with

Writ Petition No. 3050 of 2025

Shri Jayant S/o Moreshwar Temburde,
Aged 55 yrs., Occupation : Agriculturist,
R/o Ambadevi, Tahsil Warora,
District Chandrapur.

... Petitioner

- Versus -

- (1) Returning Officer cum District Deputy Registrar Co-operative Societies, Chandrapur, Tahsil & Distt. Chandrapur.
- (2) Shri Vijay S/o Ramchandra Deotale, Aged 60 yrs., Occupation : Agriculturist, R/o Warora, Tahsil Warora, District Chandrapur.
- (3) The State Co-operative Election Authority, Pune, through its Commissioner, Central Building, Pune.
- (4) The Chandrapur District Central Co-operative Bank Ltd. Chandrapur, through its Chief Executive Officer, Civil Lines, Main Road, Chandrapur, Tahsil & District Chandrapur.

... Respondents

with
Writ Petition No. 3051 of 2025

Shri Shekhar S/o Ramchandra Dhote,
Aged 67 yrs., Occupation : Agriculturist,
R/o at and post Khirdi, Tahsil Korpana,
District Chandrapur.

... Petitioner

- Versus -

- (1) Returning Officer cum District Deputy Registrar Co-operative Societies, Chandrapur, Tahsil & Distt. Chandrapur.
- (2) Shri Vijay S/o Chintamanji Bawane, Aged 64 yrs., Occupation : Agriculturist, R/o Korpana, Tahsil Korpana, District Chandrapur.
- (3) The State Co-operative Election Authority, Pune, through its Commissioner, Central Building, Pune.

(4) The Chandrapur District Central
Co-operative Bank Ltd. Chandrapur,
through its Chief Executive Officer,
Civil Lines, Main Road,
Tahsil & District Chandrapur.

... Respondents

with
Writ Petition No. 3053 of 2025

Shri Nageshwar S/o Devidas Thengane,
Aged 33 yrs., Occupation : Agriculturist,
R/o Govari, Tahsil Rajura,
District Chandrapur.

... Petitioner

- Versus -

(1) Returning Officer cum District Deputy
Registrar Co-operative Societies,
Chandrapur, Tahsil & Distt. Chandrapur.

(2) Shri Sudarshan S/o Bhagwanrao Nimkar,
Aged 67 yrs., Occupation : Agriculturist,
R/o at & post Chunala, Tahsil Rajura &
District Chandrapur.

(3) The State Co-operative Election
Authority, Pune, through its
Commissioner, Central Building,
Pune.

(4) The Chandrapur District Central
Co-operative Bank Ltd. Chandrapur,
through its Chief Executive Officer,
Civil Lines, Main Road, Chandrapur,
Tahsil & District Chandrapur.

... Respondents

Mr. S. V. Manohar, Senior Advocate assisted by Mr. A. M. Ghare,
Advocate for the petitioners

Mr. N. S. Autkar, AGP for respondent no. 1 in WP 3048/25

Ms. P. C. Bawankule, AGP for respondent no. 1 in WP 3050/25

Mr. S. C. Joshi, AGP for respondent no. 1 in WP 3051/25

Mr. A. G. Mate, AGP for respondent no. 1 in WP 3053/25

Mr. Kaustubh Deogade, Advocate for respondent no. 2 in WP 3048/25
Mr. Anup Dhore, Advocate for respondent no. 2 in WP 3050 & 3053 of 2025

Mr. M. G. Bhangde, Senior Advocate assisted by Mr. A. G. Bheti, Mr. R. M. Bhangde, Advocates for respondent no. 2 in WP 3051/25

Mr. S. S. Ghate, Advocate for respondent no. 3

Mr. O. A. Ghare, Advocate for respondent no. 4

CORAM : ANIL L. PANSARE, J.

Date of reserving judgment : 23-06-2025

Date of pronouncing judgment : 26-06-2025

COMMON JUDGMENT

Heard.

2. Issue Rule, returnable forthwith. Learned Assistant Government Pleader waives service of notice for respondent no. 1, Mr. Kaustubh Deogade, learned counsel waives service of notice for respondent no. 2 in Writ Petition No. 3048/2025, Mr. Anup Dhore, learned counsel waives service of notice for respondent no. 2 in Writ Petition Nos. 3050 and 3053 of 2025, Mr. R. M. Bhangde, learned counsel waives service of notice for respondent no. 2 in Writ Petition No. 3051/2025, Mr. S. S. Ghate, learned counsel waives service of notice for respondent no. 3 and Mr. O. A. Ghare, learned counsel waives service of notice for respondent no. 4. With consent of learned counsels for the parties, the petitions are taken up for final hearing.

3. All these petitions arise out of an order passed by respondent no. 1 accepting nomination paper of respondent no. 2 for the elections of the executive committee of respondent no. 4 – bank. For the sake of convenience, facts of Writ Petition No. 3048/2025 are considered.

4. Respondent no. 3 issued communication dated 4-2-2025 stating therein that for the purpose of preparation of provisional voters' list for election of respondent no. 4 – bank, the date 1-2-2025 will be taken as cut off date. Accordingly, provisional voters' list was prepared so also final voters' list. Respondent no. 2 was nominated to represent member-society, whose name appeared in final voters' list.

5. Mr. S. V. Manohar, learned Senior Counsel for the petitioners has invited my attention to the bye-laws of the respondent no. 4 – society. Clause A-5- 8(F)(4)(2) of the bye laws provide for eligibility for candidates desirous of contesting election of the executive committee of respondent no. 4 – bank. As per said clause, member-society whose representative is contesting election should possess “A” or “B” gradation of audit for the year immediately adjacent to the election, which, according to Mr. Manohar, would mean immediately prior to the election. He then submits that since cut off date for preparation of provisional voters' list was 1-2-2025, the process of election commenced

on that date. He further submits that the eligibility criteria as provided in bye-laws of the society will have to be understood in context with the commencement of election. Thus, according to him, member-society who possess 'A'/'B' gradation of audit adjacent/immediately prior to election will be eligible to contest election. Accordingly, he argued that the term "election" will mean the date when the process commenced. In support, he has relied upon following judgments.

- (1) *Kai. Dilip Pawar Majoor Sahakari Sanstha, through, Mr. Janardhan Keshav Pawar and ors. Vs. Ld. District Co-op. Election Officer and others* [2024 SCC OnLine Bom 2907],
- (2) *Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and anr. Vs. State of Maharashtra and ors.* [(2001) 8 SCC 509],
- (3) *Vaibhav Manohar Bhokare Vs. State Co-operative Election Authority, Pune and ors.* [2023(3) Mh.L.J. 95],
- (4) *Nilesh Gordhandas Thakker and one Vs. State of Gujarat thr. Secretary and ors.* [2013 SCC OnLine Guj 1037],
- (5) *Dalsing s/o Shamsing Rajput Vs. State of Maharashtra and ors.* [2006(3) Mh.L.J. 592],
- (6) *Union Territory of Ladakh and ors. Vs. Jammu and Kashmir National Conference and anr.* [2023 LiveLaw (SC) 749] and

(7) Civil Appeal No. 905/2021 of Hon'ble Supreme Court dated 15-3-2021.

6. In the first two cases, the Court held that preparation of provisional voters' list in a cooperative society election is an intermediate stage in the election process, and once the election process has been set in motion, the High Court should not ordinarily interfere in exercise of its powers under Articles 226 and 227 of the Constitution of India, even if, there are alleged illegalities or irregularities in the preparation of the list.

7. In the third case, the coordinate Bench of this Court observed that under the applicable bye-laws of the society, a guarantor of a defaulted loan is deemed a defaulter and is, therefore, disqualified from contesting elections to the managing committee of the society. Accordingly, Court held that the election officer's acceptance of a nomination from such a person was illegal. Considering such illegality in the order, the Court exercised its jurisdiction to prevent an ineligible candidate from contesting the election. Accordingly, it is argued that writ petition is maintainable.

8. In the fourth case, the Division Bench of Gujarat High Court held that any person who acquires eligibility after the commencement

of election process is not entitled to be included in the voters' list. Thus, the issue was about eligibility to be included in the voters' list and not eligibility to contest election.

9. In the fifth case, the Division Bench of this Court held that the eligibility criteria, as prescribed by the relevant statutes and rules, must be strictly followed, and any nomination of ineligible candidate must be struck down to uphold the integrity of the election process.

10. In the sixth case, the Supreme Court observed that restraint imposed by the Courts, as a general principle in election matters to the extent that once a notification is issued and election process starts, the Constitutional Court under normal circumstances, are loath to interfere is not a contentious issue. The Court then held that in appropriate cases, the Constitutional Courts have power to intervene to prevent arbitrary, unjust executive actions, especially when such actions undermine the fundamental principles of free and fair elections. This judgment is cited to argue that in appropriate cases, the Constitutional Court may entertain the petition to prevent unjust executive action.

11. In the seventh case, the Supreme Court set aside the High Court's order wherein the High Court directed to include name of respondent no. 1 therein in the voters' list. The Supreme Court noted

that cut off date for preparation of voters' list was 7-5-2020. The Court then referred to Section 27 of the Maharashtra Cooperative Societies Act, 1960 which provides that defaulter members on the cut-off date are not eligible to vote and, therefore, cannot participate in the election process. Accordingly, the order passed by the High Court was set aside. In the present case, however, inclusion of name of member-society in the final voters' list is not challenged on the ground that the member-society was not possessing 'A' or 'B' gradation of audit on cut off date and, therefore, this judgment will be of no assistance to the petitioners.

12. Thus, the inclusion of member-society in the final voters' list has been not challenged. What is questioned is the eligibility of the member-society to contest the election on the ground that the bye-laws of respondent no. 4 – society provided that the member-secretary whose representative (respondent no. 2 herein) is contesting election, should possess 'A' or 'B' gradation of audit in immediate year to the election. The question, therefore, is whether for the purpose of deciding the qualification/eligibility of the member-society to submit nomination, the term 'election' would mean the date when election process commenced.

13. It is well settled that the election process includes multiple stages, which includes preparation of electoral roll which includes preparation of provisional and final voters' list, claims and objections

to the provisional and final voters' list, appointment of returning officer and other such officers who conduct election, declaration of election program which includes date of declaration of election program, date of making nominations, date of scrutiny of nominations, date of publication of final list of contesting candidates and allotment of symbols, date of polling and declaration of result of voting.

14. In this context, Mr. Manohar, learned Senior Counsel submits that election would mean the date when election process commenced. As against, Mr. M. G. Bhangde, learned Senior Counsel for respondent no. 2 in Writ Petition No. 3051/2025 submits that election, in the present case, would mean the date when election program is declared, as stipulated under Rule 18 of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 (for short 'the Rules of 2014'). Mr. Bhangde has invited my attention to Rule 18, which provides that returning officer shall draw and declare the program of various stages of election starting from date of declaration of election program till the date of declaration of results of voting and, accordingly, argued that the election would mean the date when a program of various stages of election is published. I will deal with this argument little later.

15. My attention is invited by both the sides to Rule 20 of the Rules of 2014 which provides for nomination of candidates. Sub-rule (1) provides that any member, whose name appears in the final list of voters, may be nominated as the candidate for the election to fill a seat, if he is qualified to be chosen under the provision of the Act, rules and the bye-laws of the concerned society. Thus, the candidates contesting election should be qualified under the bye-laws of the society. According to the petitioners, the member-society to whom respondent no. 2 represents was not qualified under the bye-laws of respondent no. 4 – society.

16. As stated earlier, the bye-laws provide that the member-society should possess 'A' or 'B' gradation in audit in immediate year to the election. There is no dispute that the member-society was not possessing 'A' or 'B' gradation for the year preceding cut off date viz. for the year 2023-24. There is further no dispute that the member-society acquired this qualification in the audit for the year 2024-25. According to the petitioner, since the election process commenced on 1-2-2025, the audit report for the year 2023-24 will be relevant.

17. As against, Mr. Bhangde, learned Senior Counsel submits that though election program consists of various stages, the eligibility criteria will apply at various stages depending on the situation. He

submits that cut off date i.e. 1-2-2025 will be considered to decide eligibility of voter for inclusion of name in the provisional voters' list whereas eligibility to contest election will have to be decided considering the date of filing of nomination. In support, he has referred to judgment of coordinate Bench of this Court in the case of ***Sunita w/o Kalyanrao Kharat Vs. Returning Officer, Jalna District Central Co-op. Bank Ltd. and others [2023 SCC OnLine Bom 2439]*** wherein the Court in the given facts, observed that the eligibility to contest the election has to be on the date of filing of the nomination or at least before the last date of filing of the nomination paper. The Court referred to couple of judgments, namely, ***Vijaysingh Krishnarao Parbat Vs. Returning Officer, Janata Sahakari Bank Ltd. [(2003) 2 Mh.L.J. 485]*** and ***Yogendra Tarachand Katare Vs. Assistant Registrar Co-operative Societies cum Appellate Authority [2022 Mh.L.J. Online 133]***.

18. I have gone through both the judgments to find that such finding was rendered in context with the candidate's acquiring eligibility after filing nomination. The Court held that if the candidate is defaulter at the time of filing nomination and has not cured the default before the deadline, he will be ineligible to participate in the election. Thus, it is held that the defect cannot be cured subsequently and in that context, the Court held that eligibility to contest the election has to be on the

date of filing of nomination. To my mind, the judgment will be not applicable in the present case in as much as the question before the Court is whether in terms of bye-laws of the respondent no. 4 – society, was the respondent no. 2 – society qualified/eligible for contesting the election.

19. The bye-laws of respondent no. 4 – society admittedly provides that immediately prior to the election, member-society should possess audit gradation 'A' or 'B'. The Supreme Court in the case of ***Election Commission of India Vs. Shivaji and others [(1988) 1 SCC 277]*** observed in paragraph no. 6 that the word “election” has by long usage in connection with the process of selection of proper representatives in democratic institutions acquired both a wide and a narrow meaning. The Court further held that in the narrow sense, it is used to mean the final selection of a candidate which may embrace the result of the poll when there is polling, or a particular candidate being returned unopposed when there is no poll and in the wider sense, the word is used to connote the entire process culminating in a candidate being declared elected and it is in this wide sense that the word is used in Part XV of the Constitution in which Article 329(b) occurs. The Supreme Court then referred to another judgment to opine that the election should be concluded in accordance with the time schedule and all

controversial matters and disputes arising out of elections should be postponed till after the elections were over so that the election proceedings might not be unduly retarded or protracted.

20 Thus, the Supreme Court has taken a consistent view that once the election process has been set in motion, the Constitutional Courts should be slow in entertaining writ petitions at the intermediate stage. At the same time, the Supreme Court has explained the meaning of word ‘election’ by giving emphasis to the wider sense, saying that the word ‘election’ connote the entire process of election. Therefore, unless specifically provided in the statute, rules or bye-laws, the term election will be referable to election process. It is so because any other meaning will attract several criterion to be applied at various steps of election process like eligibility to be included in provisional voters’ list and then in final voters’ list and then for nomination and then acceptance of nomination and then for publication of list of valid nomination and so on. This interpretation will create uncalled anomaly. It is for this reason one will have to rely on a specific provision to argue that the eligibility/qualification for a particular stage is differently prescribed either in statute or rules or bye-laws. For illustration, if in the present case, had the bye-laws been worded like “member-society should possess audit gradation ‘A’ or ‘B’ immediately prior to the nomination”, it

would be then permissible to argue that though election process commenced on 1-2-2025, the qualification of member-society will have to be assessed on the date of submitting nomination papers. The argument of respondent no. 2 that the eligibility criteria will apply independently at different stages and that the word 'election' would mean date when election program is declared is without any substance and stands rejected accordingly.

21. As such, Mr. Bhangde, learned Senior Counsel has referred to the judgment of Division Bench of this Court in the case of *Chandrashekhar s/o Shivram Mudkanna Vs. State of Maharashtra and ors. [2016 SCC OnLine Bom 53]* to argue that the law laid down in *Shri Sant Sadguru Janardan Swami's* case supra, which is cited by the petitioner, was in context with Section 114-x of the Maharashtra Co-operative Societies Act, where Division Bench referred to the judgment of *Shri Sant Sadguru Janardan Swami's* to opine that since the statute itself stated that the preparation of voters' list shall be part of election process, various stages of election shall also include preparation of list of voters. In the said case, fresh election were taken because of death of candidate. The Court opined that entire election process must be recommenced afresh, including the preparation of a new voters' list in accordance with applicable rules. The Court was of the view that new

voters would have come into existence during the intervening period and, therefore, previous voters' list cannot be used for the new election; instead, a fresh voters' list must be prepared.

22. To my mind, this judgment cannot be taken aid of to infer that the Division Bench has, for all purpose, laid down a law that election process will not include preparation of list of voters and will depend on facts and circumstances of each case, particularly, when a consistent view is taken that the word 'election' denotes the entire process of election consisting of several stages including preparation of electoral roll, declaration of final voters' list, declaration of election program and declaration of election results by the returning officer.

23. Having said so, the election in the present case would commence from the cut off date for preparation of provisional voters' list i.e. on 1-2-2025. The bye-laws of respondent no. 4 – society refers to qualification to contest the election. It requires member-society to possess 'A' or 'B' gradation of audit immediately adjacent to election, which would mean immediately prior to 1-2-2025. The relevant year for assessment will thus be 2023-24. The member-society was admittedly not possessing grade 'A' or 'B' and was, therefore, not qualified to contest the election. The returning officer, however, considered the gradation for the year 2024-25, which would be contrary

to what has been provided in Rule 20 of the Rules of 2014 read with bye-laws of the respondent no. 4 – bank. The returning officer has thus committed apparent illegality in accepting respondent no. 2's nomination. The order of acceptance is thus unsustainable.

24. The petitions are accordingly allowed. The order dated 12-6-2025 accepting nomination papers of respondent no. 2 is quashed and set aside. Rule is made absolute in above terms.

(Anil L. Pansare, J.)

25. Mr. Bhangde, learned Senior Counsel makes a request to stay the effect and operation of the order. When enquired, I am informed that the voting is scheduled on 10-7-2025. Considering the importance of the issue involved, I deem it necessary to stay the effect and operation of the judgment till 7-7-2025. It is, however, clarified that stay to the judgment shall not be treated as acceptance of nomination of respondent no. 2. The effect of the stay shall, however, operate for the constituencies under question. The Returning Officer shall act in terms of order, if any, passed by the Hon'ble Supreme Court on or prior to 7-7-2025.

26. The parties to act on steno copy of the order.

(Anil L. Pansare, J.)

wasnik