



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

WRIT PETITION NO.3078/2025

Dinesh Dadaji Chokhare .VS. Returning Officer Cum District Dy. Registrar,
Cooperative Societies, Chandarpur and Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. C. S. Kaptan, Senior Advocate assisted by Mr. A.M. Ghare,
Advocate for petitioner.

Mrs. M. S. Naik, A.G.P. for respondent No.1.

Mr. A. C. Dharmadhikari, Advocate for respondent No.2.

Mr. O. A. Ghare, Advocate for respondent No. 3.

CORAM : ANIL L. PANSARE, J.

DATE : JUNE 27, 2025

Heard.

2. At the outset, Mr. A. C. Dharmadhikari, learned counsel for respondent No.2 raised preliminary objections, on following grounds:

(i) That the alternative remedy is available to the petitioner and, therefore, writ petition is not maintainable.

(ii) The Member-Society, who has nominated respondent No.2 as also the petitioner, are not made party to the proceeding.

(iii) The State Co-Operative Election Authority, who has declared programme, has been not made party.

3. So far as maintainability of the petition is concerned, Mr. Dharmadhikari, learned counsel for respondent No.2, has relied upon judgment in the case of **Shaji K. Joseph Vs. V. Vishwanath and Ors.; [MANU/SC/0223/2016]**, wherein the Hon'ble Supreme Court held that the High Court was not right in interfering with the process of election, especially when the process of election had started upon publication of election programme and, more particularly, when an alternate statutory remedy was available to respondent No.1 therein.

4. As against, Mr. C. S. Kaptan, learned Senior Counsel for petitioner, has referred to the recent judgment of the Supreme Court in the case of *Union Territory of Ladakh & Ors. vs. Jammu and Kashmir National Conference & anr. [2023 LiveLaw (SC) 749]*, wherein the Supreme Court, after taking stock of various judicial pronouncements, held that as a general rule, Courts do not interfere in the election matters, once process of election commences, however, this principle is not absolute and that where the executive action is unjust and arbitrary, the Constitutional Courts are duty-bound to step in.

5. Thus, what follows from the above judgments is that the Courts should be slow in entertaining writ petitions where there is an alternative remedy available to the party. However, there is no absolute bar to entertain the writ petition in appropriate cases. It will be, therefore, necessary to find out whether the present case falls in the category where this Court should entertain the writ petition.

6. As regards the second objection; to my mind, it would have been proper for the petitioner to make Member-Society of respondent No.2 as party to the proceeding. Nonetheless, since respondent No.2 is representing the Member-Society, the defect will not lead to dismissal of petition. The requirement of society as party may be necessary where its presence is mandatory like where the name of society as also its representative is deleted in the final voter's list. In such situation, the representative alone may not have locus to challenge the order, particularly if the society refrains from challenging the said order. Such is not the case here and, therefore, the petition will be maintainable.

7. The third objection is that the State Co-Operative Election Authority has been not made party. This objection, to my mind, is without any merit inasmuch as respondent No.1 has been appointed

to declare election programme and conduct the election and, therefore, concerned authority is made party to the proceeding.

8. This takes me to merit of the case. On 18.06.2025, following order was passed.

“Heard.

2] Respondent no.2's name was reflected in the provisional voters' list that was published by the competent authority on 9/5/2025. His name was recommended by Pandharkawada Seva Sahakari Sanstha Maryadit. One Mr. Bhaskar Sonekar raised an objection for inclusion of his name in the provisional voters' list. The objection was allowed by the Divisional Joint Registrar, Co-operative Society, Nagpur, and accordingly, vide order dated 20/5/2025, his name as also the name of the Society was removed from the voters' list.

3] The said order was challenged by respondent no.2 before this Court in Writ Petition No. 2752/2025, and vide order dated 30/5/2025, by way of an interim relief, his name was included in the final voters' list, subject to final decision in writ petition.

4] The final decision was taken on 11/6/2025. The order dated 20/5/2025 was quashed and set aside, and the enquiry was remanded back to the Divisional Joint Registrar, Co-operative Society, Nagpur, for decision afresh. The parties were directed to appear before the authority on 13/6/2025.

5] I am informed that the enquiry is pending, meaning thereby, that it is not yet decided whether respondent no.2's name will be included in the final voters' list.

6] The argument is that though respondent no.2 herein has filed his nomination on 6/6/2025, the same was filed without seeking leave of the Court. The learned Counsel for the petitioner has invited my attention to the prayer made by respondent no.2 in Writ Petition No. 2752/2025, wherein, as an interim relief, he sought permission to participate in the process of election of Board of Directors, District Central Co-

operative Bank Ltd., Chandrapur – respondent no.3. He submits that by way of interim relief, this Court vide order dated 30/5/2025 permitted inclusion of his name in final voters' list and nothing more. According to him, law is well settled that a prayer sought, but not granted, would amount to refusal of prayer and, therefore, the prayer made by respondent no.2 for permitting him to participate in the process of election, was turned down.

7] Accordingly, an objection to nomination was raised by the petitioner before respondent no.1, which was pleased to reject the same by assigning reasoning that vide order dated 11/6/2025 passed in Writ Petition No. 2752/2025, the petitioner would be entitled to contest the election. The argument is that the finding is perverse because no such order was passed.

7] Issue notice to the respondents returnable on 24/6/2025.

8] The learned A.G.P waives notice for respondent no.1.

9] Hamdast granted.

10] In addition, the petitioner shall serve respondent nos. 2 and 3 by speed post and file affidavit of service. Petitioner may also, towards additional efforts, serve the said respondents through the Counsel appearing before the Divisional Joint Registrar, Co-operative Society, Nagpur.”

9. As could be seen, respondent No.2's name was included in the provisional voter's list. Upon objection taken by one Bhaskar Sonekar, the Divisional Joint Registrar, vide order dated 20.05.2025, accepted the objection and directed to delete name of respondent No.2 as also the Member-Society. Respondent No.2's name was thus not included in the final voter's list. The name was, however, subsequently included in terms of order dated 30.05.2025, passed by this Court in Writ Petition No.2752/2025. Since name of respondent No.2 was included in final voter's list, on 06.06.2025, he filed nomination paper to contest the election.

10. Mr. Kaptan, learned Senior Counsel for petitioner, has invited my attention to order dated 30.05.2025, to point out that the inclusion of name of respondent No.2 was subject to final decision of the petition. He submits that vide order dated 11.06.2025, the final decision was taken. The writ petition was partly allowed. The order dated 20.05.2025, passed by respondent No.2 was quashed and set aside and inquiry was restored to the file of respondent No.2 therein for consideration afresh.

11. Mr. Kaptan, submits that once the final order is passed, the interim order would merge into the final order and thus will cease to exist. In support, he has relied upon judgment of Supreme Court in *Prem Chandra Agrarwal and another Vs. Uttar Pradesh Financial Corproation and Others [(2009) 11 SCC 479]*, wherein the Supreme Court reiterated the well settled principle that once a final order is passed, all earlier interim orders merge into the final order and the interim orders cease to exist. Accordingly, he argued that on 11.06.2025, interim order dated 30.05.2025 ceased to exist and, therefore, the name of respondent No.2 shall automatically stand removed from the final voter's list. Once the name stood removed from final voter's list, respondent No.2 could not have submitted nomination in terms of Rule 20 of the Maharashtra Co-operative Societies (Election to Committee) Rules, 2014. He submits that the Returning Officer has not considered this objection.

12. As against, Mr. Dharmadhikari, learned counsel for respondent No.2, submits that the interim relief granted shall cease to exist only upon dismissal of the petition. In support, he has referred to judgment of Supreme Court in the case of *State of U.P thr. Secretary and Ors. Vs. Prem Chopra [2022 LiveLaw (SC) 378]*, wherein the Court, while dealing with interim orders, held that the order of stay is not wiped out from the existence unless it is quashed. The Court further held that once the proceedings, wherein the stay

was granted are dismissed, any interim order granted earlier, merges with the final order unless the final order dismissing the proceedings specifies otherwise.

13. Thus, the judgments cited by both the sides, reiterate the principle that once the final order is passed, all earlier interim orders merge into the final order and the interim orders cease to exist unless the final order specifies otherwise.

14. In the present case, when this Court, vide order dated 11.06.2025, allowed the petition partly and remanded the inquiry back to respondent No.2 therein, nothing was specified about the effect of interim relief. Nonetheless, the concept of merger of interim order into final order will have to be considered in the light of facts and circumstances of each case. The interim order will cease to exist on passing final order but its effect may merge into final order, depending on nature and effect of interim order, particularly if the petition is partly or wholly allowed.

15. As stated earlier, in terms of interim order dated 30.05.2025, this Court permitted inclusion of name of respondent No.2 in final voter's list subject to final decision. Accordingly, respondent No.2 filed his nomination. The Court thought it necessary to remand the matter back and accordingly allowed the petition partly. Order dated 20.05.2025, by which the Divisional Joint Registrar allowed the objection raised by one Bhaskar Sonekar for inclusion of the name of Member-Society in provisional voter's list, was accepted and accordingly directions to remove the name of respondent No.2 and Member-Society were given. The Divisional Joint Registrar reheard the parties in terms of final order dated 11.06.2025, passed in Writ Petition No.2752/2025 and on 20.06.2025 rejected the objection, meaning thereby that respondent No.2's name is included in the final voter's list.

16. Mr. Kaptan submits that since the interim order dated 30.05.2025 ceased to exist on 11.06.2025, when final order was passed and since the objections were decided by the Returning Officer on 12.06.2025, the name of respondent No.2 wouldn't have appeared in the final voter's list and, therefore, respondent No.2 was ineligible to file nomination paper. As against, Mr. Dharmadhikari submits, and rightly so, that the order dated 20.06.2025 will have retrospective effect of inclusion of name of respondent No.2 in final voter's list and defect in the intervening period, if any, shall stand cured.

17. The arguments will have to be considered in the light of the principle of merger. The petition was partly allowed and respondent No.2's name was included in final voter's list by way of interim order. The purpose of remanding the inquiry back was to consider afresh whether the name of respondent No.2 could be included in final voter's list. In the circumstance, even if it is to be argued that the interim order merged in the final order, the merger will have to be taken in positive sense. The effect of merger, to my mind, was continuation of interim arrangement until the objection for inclusion of respondent No.2's society in provisional voter's list is decided afresh. Thus, until the objection is decided, the parties will have to act in terms of interim arrangement made. It is so because the order, if read otherwise, the valuable rights of respondent No.2 to contest election would be jeopardized, for no fault of his. Had respondent No.2 been not allowed to submit nomination form and if subsequently it was found, as has been found in the present case, that his name should be included in the final voter's list, his right to contest election would have ceased. As against, if respondent No.2 is permitted to submit nomination in the light of interim order and consequently if the objection for inclusion of his name in provisional

voter's list is accepted, respondent No.2's nomination would have stood rejected automatically.

18. As such, Mr. Kaptan, is right in contending that the decision in election matters are to be taken by applying laws strictly and not on the basis of equity. The above observations are, however, made to understand the effect of merger of interim order into final order, in the peculiar facts of the present case.

19. Mr. Kaptan submits that the order dated 20.06.2025 passed by the Divisional Joint Registrar, rejecting the objection has been challenged in separate petition. However, it is nobody's case that in the said petition, the order so passed, has been stayed or set aside. That being so, as of now, respondent No.2's name is included in the final voter's list. He has also submitted nomination form. The voting is scheduled on 29.06.2025.

20. In the circumstances, I am not inclined to interfere with the order dated 12.06.2025 passed by respondent No.1 accepting respondent No.2's nomination, by keeping open the option of alternative remedy as available to the petitioner, in accordance with law.

The writ petition is accordingly dismissed. No order as to costs.

(Anil L. Pansare, J.)