

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.15601 OF 2025

1. Shaikh Amirpasha Murtuja
Age: 45 Years, Occu.: Agriculturist
R/o.: Bardapur, Dist. Beed. ..Petitioner

VERSUS

1. State of Maharashtra
Through its Principal Secretary,
Department of Co-operative,
Marketing and Textile Madam Cama Marg,
Hutatma Rajguru Chowk
Mantralaya, Mumbai-400032
2. State Cooperative Election Authority,
Pune Through its Secretary.
Ground Floor, Old Central Building,
B.J. Road, Pune 411 001.
3. The District Deputy Registrar Cooperative Societies/
District Cooperative Election Officer, Beed
Sahakarshakti Bulding,
Jalana Road, Beed-431122.
4. Assistant Registrar, Cooperative Societies,
Ambejogai, Mahek Building,
Prashant Nagar, Ambejogai,
Taluka Ambejogai, District Beed.
5. Ambejogai Taluka Kharedi Vikri Sahakari Sanstha Maryadit,
Through its Administrator,
Taluka Ambejogai, District Beed. ..Respondents

...

Mr. A.N. Sikchi, Advocate for petitioner.
Mr. S.N. Kendre, AGP for Respondent/State.
Mr. V. H. Dighe, Advocate for Respondent Nos.2 & 3.
Mr. R.P Adgaonkar, Advocate for Respondent No.5.

...

CORAM : S. G. CHAPALGAONKAR, J.
DATED : FEBRUARY 16, 2026

FINAL ORDER :-

1. Present writ petition is filed for following reliefs :

“A. The Hon'ble High Court may be pleased to issue appropriate writ, order or direction in the nature of writ and thereby quash and set aside the impugned order dated 18.12.2025 passed by the Respondent No. 3 rejecting the objection of the Petitioner to the provisional voters list published vide election program for finalization of the voter list on 27.11.2025.

B. The Hon'ble High Court may be pleased to issue appropriate writ, order or direction in the nature of writ and thereby direct the Respondent No.3 to include the name of the Petitioner in the final voters list of Respondent No.5 for the elections to be conducted to the Respondent No. 5 society.

C. The Hon'ble High Court may be pleased to issue appropriate writ, order or direction in the nature of writ and thereby direct the Respondent No.5 to include the name of the Petitioner in the membership register of the society as per the order passed under Section 23 of the Maharashtra Cooperative Societies Act by the Respondent No.4.”

2. Mr. Sikchi, learned advocate appearing for petitioner submits that respondent no.5 is a Co-operative Society which has been formulated to facilitate farmers and other allied institutions to carry on agricultural activities and marketing goods and facilitate its storage.

3. The petitioner had applied for membership of society in terms of Section 23(1) of Maharashtra Co-operative Societies Act, 1960. In absence of response of society, petitioner approached respondent no.4 who vide order dated 12.12.2019 pleased to allow petitioner appeal and declared petitioner to be member of respondent no.5 – society and directed society to include his name in list of members. On 20.12.2021, petitioner represented respondent no.4 to

direct society to comply order dated 12.12.2019 and incorporate his name in membership register of society. Eventually, respondent no.4 vide his communication dated 24.01.2022 directed respondent no.5 to include petitioner's name in register of membership and report him compliance. Unfortunately, neither directions were complied with nor order passed by respondent no.4 was complied.

4. On 27.11.2025, respondent no.3 issued notification declaring election of respondent no.5/co-operative society and issued directions to prepare provisional list of voters. When petitioner noticed that his name is not appearing in list of voters, he approached respondent no.3 for necessary directions. However, respondent no.3 rejected petitioner's objection/representation observing that he does not possess jurisdiction to direct inclusion of petitioner's name in voters list, as his name is not recorded in membership register of society.

5. Mr. Sikchi would submit that undisputedly, in the year 2019 as per directions issued by respondent no.4, petitioner acquired deemed membership of society. If society fails to comply directions for political reasons, he cannot be deprived right to participate in election by refusing to include his name in voters list.

6. Per contra, Mr. Adgaonkar, learned advocate appearing for respondent no.5 submits that at present, Administrator is appointed on respondent no.5 – society and he is not empowered to

take policy decision. The society has maintained statutory membership register as per Section 38(1) of Maharashtra Co-operative Societies Act. The petitioner's name did not find place in membership register on cut-off date i.e. 01.01.2025. Therefore, petitioner cannot claim inclusion of his name in voters list. He would submit that although there were directions under Section 23 by Assistant Registrar conferring membership upon petitioner, unless there is compliance of by-laws and conditions contemplated for acquiring membership, petitioner cannot seek automatic inclusion in membership register and consequential voters list.

7. Mr. Dighe, learned advocate appearing for respondent no.3 submits that they have acted as per information provided by society, particularly register of membership maintained under Section 38(1) of the Act and in absence of entry of petitioner's name in membership register, Election Officer is not empowered to direct inclusion of petitioner's name in voters list.

8. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that petitioner has submitted his application for membership under Section 23(1) of Maharashtra Co-operative Societies Act. Section 23 contemplates that no society shall, without sufficient cause, refuse admission to membership to any person duly qualified therefor under the provisions of Act and its by-laws. Sub-clause (1A) of Section 23

prescribes that if a society refuses to accept the application from an eligible person for admission as a member, or the payment made by him in respect of membership, such person may tender an application to the Registrar, who shall forward such application to the society concerned. If society fails to communicate any decision after receipt of application from Registrar within 60 days, such application shall be deemed to have been allowed and applicant shall be deemed to have become a member of such society. Sub-clause (2) of Section 23 prescribes that if society refuse to admit a person as a member and communicates refusal for admission, such a person is entitled to approach Registrar who is empowered to decide the application.

9. In present case, it has been observed that on refusal of acceptance of petitioner's application for membership, application were forwarded through registered post, however, society refuses to accept same. Subsequently, Office of Assistant Registrar forwarded application of petitioner to society. However, society failed to take decision. Thereafter, appeal filed by petitioner was heard by Assistant Registrar and after giving sufficient opportunity to respondent/society, directions were issued with declaration that petitioner is deemed to be member of respondent/society and his name shall be included in record/membership register. The aforesaid order is passed on 12.12.2019 and it has been communicated time to time to respondent no.5 – society by petitioner as well as office of respondent no.4.

Evidently, respondent no.5 avoided to act upon directions issued by respondent no.4 for no good reason.

10. The fact remains that in view of specific directions given by respondent no.4, petitioner has acquired deemed membership from date of order passed by respondent no.4. In that view of matter, it was mandatory for respondent no.5 to include petitioner's name in register of membership maintained under Section 38 of Maharashtra Co-operative Societies Act. This Court therefore holds that petitioner has acquired membership of respondent no.5 – society from date of deemed declaration of his membership under order passed by respondent no.4 in exercise of appellate jurisdiction under Section 23. Undisputedly, order passed by respondent no.4 has attained finality and same was never challenged by society or anyone else.

11. In that view of matter, writ petition succeeds. Hence, same is allowed in terms of prayer clause (A), (B) and (C).

12. Respondent no.5 shall forthwith incorporate petitioner's name in membership register in terms of order passed by respondent no.4. Thereupon, respondent no.3 shall include petitioner's name in voters list.

(S.G. CHAPALGAONKAR, J.)