



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5447 OF 2026

Pathan Mobinoddin Mohiyoddin

VERSUS

The State Co Operative Election Authority And Others

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Mr. K. J. Suryawanshi h/f Mr. A. K. Shingare, Advocate for the Petitioners

Mr. V. H. Dighe, Advocate for Respondent Nos. 1 and 2

Mr. V. H. Pathade, Advocate for Respondent No.3

Mr. R. K. Ingole, AGP for Respondent No. 4

Mr. K. F. Shingare, Advocate for Respondent No. 5

CORAM : S. G. CHAPALGAONKAR, J
(VACATION COURT)

DATE : MAY 28, 2026

PC:

1. The Petitioners impugn order dated 18-05-2026 passed by Respondent No. 2 - District Cooperative Election Officer, Chhatrapati Sambhajinagar, thereby deleting name of Petitioner Society from voters list of Respondent No. 3 – Aurangabad District Central Co-operative Bank Ltd. (for short ‘ADCC Bank’).

2. Undisputedly, Petitioner/Society is a member of Respondent No. 3 Bank. The election of Board of Directors of Respondent No. 3 Bank was due in month of March, 2026. The Respondent No. 2 issued a notification dated 11.03.2026 inviting member society to submit resolution of its representative for preparation of provisional voters list. In pursuance to resolution passed by Society, representatives were nominated to participate in election of Respondent No. 3 Bank.

Eventually, name of delegates/representatives of Petitioners Society was included in provisional voters list. However, on objection raised by Respondent No. 5 and report submitted by Respondent No. 1, Respondent No. 2 Election Officer deleted name of Petitioner Society from voter's list on ground that Society is under liquidation.

3. Mr. K. J. Suryawanshi, learned Advocate appearing for Petitioners, submits that impugned order is passed without granting opportunity of hearing to Petitioners. The Respondent No. 5 had raised objection dated 10.04.2026 before notification of election issued by Respondent No. 2. The Respondent No. 5 has no locus to invoke jurisdiction of Respondent No. 2 under Rule 11 of Maharashtra Cooperative Societies (Election to Committee) Rules, 2014 (for short '**Election Rules of 2014**'). Even otherwise, merely on ground that interim order is passed by Registrar appointing liquidators and before passing final order for winding up of Society, existence of Society and right to participate in election of federal Society cannot be taken away. He would submit that in present case, liquidator has not taken charge of affairs of society. No steps are taken in pursuance to passing final order of winding up. In support of his contention, Mr. Suryawanshi relies upon observations of Supreme Court of India in case of *Vineshkumar Mavjibhai Parmar and Others vs. Dethali Gopalak Vividh Karyakari Sahakari Mandali Ltd and Others*, 2017 (1) SCC 273 and observations of Single Judge of this Court in case of *Balaji Phale Bhaji Pala Kharedi Vikri and Prakriya Sahakari Sanstha Ltd vs. The State of Maharashtra and Others* (Writ Petition No. 1266/2021, decided on 30.01.2021).

4. Per contra, Mr. V. H. Dighe, learned Advocate appearing for Respondent Nos. 1 and 2, justifies impugned order contending that report was called from Respondent No. 1 regarding dormant societies. The action of interim measures for winding up of Society are already taken. The orders appointing liquidator in terms of Section 103 of Maharashtra Cooperative Societies Act, 1960 (for short '**the Act**') have been passed long back and same have attained finality. The officers of society are not in charge of office. Therefore, Respondent No. 2 has rightly passed order deleting name of Petitioner Society from list of voters for ensuing election of ADCC bank.

5. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that Petitioner Society is a member Society of Respondent No. 3 - ADCC Bank. The name of Petitioner Society was included in provisional voters list for ensuing elections of Respondent No. 3 Bank. On 10.03.2026, notification inviting resolutions regarding representatives of member society was published by Respondent No. 2. Accordingly, Petitioner Society had passed a resolution nominating its delegate. As per notification, objections to provisional voters list were to be raised during period from 27.04.2026 to 06.05.2026. Admittedly, during this period, no objection was raised in terms of Rule 11 of Election Rules of 2014. However, Respondent No. 2, relying upon communication of Respondent No. 5 dated 10.04.2026, called report from Respondent No. 4 regarding status of Petitioner Society. Accordingly, action of deletion of name of Petitioner Society has been taken.

6. Undisputedly, action is taken on ground that interim order appointing liquidator on Petitioner Society has been passed in terms of Section 103 of the Act. There is nothing to show that in terms of interim order, liquidator has taken charge of society. The sub-section 3 of Section 103 of the stipulates shows that when final order is passed confirming interim order, officers of society shall vacate their offices and while winding-up order remains in force, general body of Society shall not exercise any power. In present case, stage contemplated under sub-section 3 of Section 103 of the Act is not yet reached. Therefore, there is no reason to presume that office of Society fallen vacant. Till this date, winding-up order is not passed and powers of general body of society are not suspended.

7. In case of ***Vineshkumar Mavjibhai Parmar and Others*** (supra), Hon'ble Supreme Court of India has observed in paragraph 25 and 31, thus:

25. The Gujarat legislature expressly provided under the SOCIETIES ACT for the curtailment of certain rights of the officers of societies facing liquidation proceedings. It must be remembered that at the same time it also declared that such OFFICERS cease to be the officers of the Society only when a final order of winding up is passed. In a given case if the Registrar after an appropriate enquiry following the interim order of winding decides not to finally wind up the society, the OFFICERS of the society would once again be entitled to exercise all the rights associated with it and perform all the functions attached to the office. Therefore, merely because the officers of CREDIT SOCIETY facing liquidation are disabled from enforcing certain rights attached to the office or perform certain obligations appended to the office, it does not necessarily follow that they are disabled from performing every function entrusted by law to such office.

31. Credit Societies against which there is an 'interim order' of winding up are temporarily debarred from dispensing

agricultural credit, by virtue of the operation of law. The embargo imposed by such interim order may or may not fructify into a final order of winding up. On the face of such possibility of the society resuming its activity of "dispensing agricultural credit" - to debar its managing committee members from discharging their statutory obligation under the MARKETS ACT would be productive of public mischief. Such an interpretation of the statute must be avoided.

8. In light of aforesaid observations, in present case, when final order is not yet passed in terms of Section 102 of the Act on basis of interim order for winding-up of Society, it cannot be held that Petitioner Society had no authority to participate in the election of ADCC bank or recommend name of its representative.

9. The record indicates that impugned order is passed without there being objection by any member or representative of member of society in terms of Rule 11 of Election Rules of 2014. The Respondent No.2 acted upon communication of Respondent No.5 who has no *locus standi* to raise objection regarding inclusion of Petitioners name in provisional voters list. Further, Respondent No.2 did not offer opportunity of hearing to Petitioner Society and passed order disregard to principles of natural justice. Even otherwise, order impugned is not sustainable in light of scheme under the Act.

10. In result, impugned order deserves to be quashed and set aside. Hence, Writ Petition stands allowed in terms of prayer clause 'B'.

(S. G. CHAPALGAONKAR, J.)

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