

(2023) 04 BOM CK 0022
In the Bombay High Court
Case No : Writ Petition No.2984 Of 2023

Dharmaraj

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 06-04-2023

Acts Referred:

Maharashtra Agricultural Produce Market Committee (Election To Committee) Rules, 2017 — Rule 6, 7, 7(3)
Maharashtra Co-Operative Societies Act, 1960 — Section 38
Maharashtra Agricultural Produce Marketing (Development And Regulation) Act, 1963 — Section 13(1)(b)

Citation : (2023) 04 BOM CK 0022

Hon'ble Judges : Arun R. Pedneker, J

Bench : Single Bench

Advocate : Avinash N. Irpatgire, K. B. Jadhavar, S. K. Kadam, S. A. Ambad, S. G. Dodya

Final Decision : Dismissed

Judgement

Arun R. Pedneker, J

1. By the present writ petition the petitioner is challenging the impugned order dated 06.03.2023, passed by respondent no.4 – the District Election Officer (APMC) & the District Deputy Registrar, Co-operative Societies, Beed thereby rejecting the objection filed by the petitioner to the provisional voters list of respondent no.5 – the Agriculture Produce Market Committee, Ambajogai.

2. Heard Mr. Avinash N. Irpatgire, learned Advocate for the petitioner, Mr. K. B. Jadhavar, learned AGP for respondent / State, Mr. S. K. Kadam, learned Advocate for respondents no.3 and 4, Mr. S. A. Ambad, learned Advocate for respondent no.5 and Mr. S. G. Dodya, learned Advocate for respondents no.6 and 7.

3. Rule. Rule returnable forthwith. With consent of parties, the writ petition is heard finally.

4. The present petition concerns the voters list of the traders constituency of the Agriculture Produce Market Committee, Ambajogai, Taluka – Ambajogai, District – Beed. Respondent no.4 – the District Election Officer (APMC) & the District Deputy Registrar, Co-operative Societies, Beed published the provisional voters list on 15.02.2023 for the election to the respondent no.5 APMC. In accordance with the election programme issued by respondent no.3, objections were invited to the provisional voters list. The petitioner on 23.02.2023 raised objection for inclusion of 483 names in the provisional voters list of traders constituency. The Respondent no.4 issued notices on the objection of the petitioner to the respondent no.5 so also issued notice to the Assistant Registrar, Co-operative Societies, Ambajogai with direction to submit a report with regard to the objection raised by the petitioner and the hearing on the objections was fixed on 01.03.2023.

5. Respondent no.4, on 06.03.2023, rejected the objection raised by the petitioner. Respondent no.4 by its order dated 06.03.2023 observed that the objections are raised as regards traders who are holding licenses however are not doing business for the last more than 2 years in the market area of the APMC and inquiry be conducted against the said traders and they be disqualified. The objector has also given a list of 483 members who are not doing trading activity. From the report received from the APMC it was found that 483 members have licenses and they were renewed. It was also mentioned in the report of the APMC that 88 traders had not renewed their licenses and, as such, their names were not included in the provisional voters list. The election authority respondent no. 4 held that the objections raised by the petitioner are vague and the provisional voters list contains the names of the members whose licenses are renewed and that the names of 483 names were directed to be maintained in the final voters list and the 88 members whose names were not in the provisional voters list for not having renewed their licenses, their names are not included in the final voters list.

6. The petitioner has challenged the order passed by the election authority / the respondent no.4. The petitioner contends that 483 members on the provisional voters list of the traders constituency are not conducting the business in the market of the APMC and that they were not actually doing business in the market area and, as such, their names ought to have been deleted by respondent no.4 from the final voters list.

7. The learned counsel for the petitioner further submits that respondent no.4 ought to have taken into consideration that 483 traders which were on the provisional voters list of the traders constituency were not conducting business in the market area and yet their names were included and, as such, licenses / renewals granted to them ought not to have been taken into consideration while including their names in the final voters list.

8. The law on the scope of inquiry under Rule 7 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 has been

examined in Judgment dated 27.03.2023, Writ Petition No.516 of 2023 (Yogeshwar Prabhakar Marathe and others Vs. The State of Maharashtra and others) and relevant portion reads as under:-

"19. Thus applying the law laid down in Dhondiba's case and Balasaheb's case, the election officer cannot go into the validity of grant of license or renewal of license. However, in absence of a statutory register as available in case of Section 38 of the Maharashtra Cooperative Societies Act, the election authority, has to verify the date of license and renewals of license and whether the license is for the period of 2 years as contemplated under Section 13(1)(b) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 read with Rule 6 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017.

20. Thus on the combined reading of Dhondiba's Judgment and Balasaheb Gadhave's Judgment, the words "omission or error in name" used in Rule 7 of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules, 2017 would mean if a trader has a license for 2 years and his name is not shown in the provisional list, and the same can be enquired by election authority under Rule 7(3) of the Maharashtra Agricultural Produce Market Committee (Election to Committee) Rules 2017. However, validity of grant of license or renewal cannot be inquired by the election officer."

9. This court in Writ Petition No.516 of 2023 (Yogeshwar Prabhakar Marathe and others Vs. The State of Maharashtra and others) has held that the election authority cannot travel beyond the license granted and inquire into the validity of license or the renewal of license.

The licenses being issued and the renewals being granted and their names having been published in the provisional voters list, respondent no. 4 – election authority has rightly not examined the aspect of validity of grant of licenses or renewal of licenses. Once the licenses are issued to the traders it is beyond the scope of the summary enquiry of the election authority to verify whether any business is transacted by the traders for last 2 years in the market area.

10. This being an election matter, this court would be extremely slow in interfering with the election process and would do so only in case of patent illegality. As the order passed by respondent no.4 is not patently illegal, this court would not entertain the writ petition and dispose of the present writ petition with liberty to petitioner to raise his grievance as may be available in law before the appropriate forum.

11. The writ petition is dismissed with liberty as aforesaid. Rule is discharged.