

**(2003) 06 GUJ CK 0032**

**In the Gujarat High Court**

**Case No :** Special Civil Application No. 7043 of 2003 with Civil Application No. 3590 of 2003

Harakhbhai Haribhai Patel

APPELLANT

Vs

S.S. Baria

RESPONDENT

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**Date of Decision :** 10-06-2003

**Acts Referred:**

Gujarat Co-operative Societies Act, 1961 — Section 145, 145U, 74C

**Citation :** (2003) 23 GLH 505 : (2003) 2 GLR 1530

**Hon'ble Judges :** K.A. Puj, J

**Bench :** Single Bench

**Advocate :** B.S. Patel and Ranjan B. Patel in Special Civil application No. 7043 of 2003 and M.K. Vakharia, for Civil application No. 3590 of 2003, for the Appellant; Notice Served, by D.S. for Respondent Nos. 1 and 10, K.G. Vakharia and M.K. Vakharia for Respondent Nos. 2 to 9 in Special Civil Application No. 7043 of 2003, B.S. Patel, for Opponent No. 1 and Nagesh Sood, for Opponent No. 2 in Civil Application No. 3590 of 2003, for the Respondent

**Final Decision :** Dismissed

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## Judgement

K.A. Puj, J.—The petitioner, by way of this petition under Article 226 of the Constitution of India, is challenging the order passed by the respondent No. 1 dated 21-5-2003 whereby the objections raised by the petitioner were rejected and respondent Nos. 2 to 10 were directed to cast their votes in the proposed election of Sankheda Jetpur-Pavi Taluka Ginning Pressing & Cotton Sale Co-operative Society Limited (hereinafter referred to as "the Society"). The said order was passed by the respondent No. 1 in purported exercise of powers under Rule 6(4) of the Gujarat Specified Co-operative Societies Election to Committee Rules, 1982 (hereinafter referred to as "Rules").

2. It is the case of the petitioner that the petitioner is an elected delegate for the proposed election of the Society which is a specified Society under the provisions of Section 74C of the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the Act"). The respondent No. 1, the Deputy Collector, while

exercising powers of the Collector u/s 145 of the Act, issued Notification for the ensuing election of the Society, wherein the petitioner's name is reflected in the Voters list as "delegate" in the individual Voters List and also as the representative of Sadhali Group Vividh Karyakari Seva Sahakari Mandali Limited.

3. It is further stated in the petition that the respondent Nos. 2 to 10 Societies are under the management of Administrator appointed by the Registrar. As per provisions of Section 81 of the Act, the Administrator appointed is supposed to act according to the directions issued by the Registrar. The District Registrar, Co-operative Societies, Vadodara has appointed Baroda District Central Cooperative Bank Limited as an Administrator of respondent Nos. 2 to 10 Societies, and thereafter, the Bank has delegated powers of Administrator to concerned Inspectors of the Branch. The concerned Inspectors of the Branch are administering the affairs of the Societies.

4. It is further stated in the petition that after the judgment delivered by this Court in Special Civil Application No. 3855 of 1987, the said Registrar has issued a Circular dated 12-8-1997 wherein the Registrar has clearly directed all the Administrators/Custodians/Liquidators of the State of Gujarat that in case of nomination of the representative of the concerned Societies which are under their management, they should call the General Body Meeting and decide the name of any Member as representative to be nominated from the concerned Society. It is further stated that the respondent Nos. 2, 3, 5 to 10 are the employees of the Bank itself who are neither the Members nor the Administrators of the said Societies and their names have been sent as representatives. The respondent No. 4 is neither an employee of the Bank nor Member of the respondent No. 4-Society and he is the uncle of the respondent Nos. 2, 5, 6 and 7, namely Sunilbhai Sumanbhai Patel. It is further stated that the Bank is appointed as an Administrator and in absence of any provisions under the Act the Bank cannot delegate powers of Administrator to any of its officers. It is further stated that the delegatee has exercised the powers which apparently is without jurisdiction and has appointed the respondent Nos. 2 to 10 as representatives without calling any General Body Meeting and by passing a resolution only in the Proceeding Book which is signed by the delegatee Administrator.

5. The petitioner, therefore, submitted his objection dated 8-5-2003 to the respondent No. 1 pointing out the Circular issued by the State Registrar. However, the said representation was not considered and the respondent No. 1 has passed an order on 21-5-2003 permitting the respondent Nos. 2 to 10 to cast their votes in the ensuing election.

6. It is this order which is under challenge in the present petition. After hearing Mr. B. S. Patel, learned Advocate appearing for the petitioners, this Court [Coram : K. M. Mehta, J.] has passed the following order on 27-5-2003 :

"Notice returnable on 2-6-2003. Mr. Patel has relied upon the order of this Court in Special Civil Application No. 3855 of 1997 decided on 1-7-1997. In view of the

same, the respondent Nos. 2 to 10 are restrained from casting their votes in the ensuing elections of the society viz. The Sankheda Jetpur-Pavi Taluka Ginning Pressing and Cotton Sale Co-operative Society Limited to be held on 7-7-2003. It is also directed that if the respondent Nos. 2 to 10 society sends the name of representatives under the provisions of Rule 5(2) of the Election Rules, that would be considered by the Collector on being in the final Voters List and the Collector on being satisfied about the genuineness of the name of the representatives will include the names by calling Annual General Meeting in view of the Circular dated 12-8-1997 issued by the Government. Direct Service permitted."

7. On service of the notice, the respondent Nos. 2 to 10 have filed their appearance and affidavit-in-reply was also filed on 1st June, 2003. The respondent Nos. 2 to 10 have also filed Civil Application No. 3590 of 2003 in Special Civil Application No. 7043 of 2003 on 5th June, 2003 for vacation of the interim relief granted by this Court on 27-5-2003. In affidavit-in-reply, the respondent Nos. 2 to 10 have come out with the case that the petitioner has made misrepresentation in the petition and also suppressed certain material facts, and thereby, an ex-parte order was obtained against the respondent Nos. 2 to 10. A specific reference was made in the petition to the effect that "the respondent Nos. 2 to 10 Societies are under the management of Administrator appointed by the Registrar u/s 81 of the Act". It is stated that this statement made in the petition is absolutely incorrect inasmuch as the respondent Nos. 2 and 4 are not under the management of the Administrator appointed u/s 81 of the Act. It is further stated that an incorrect statement was also made to the effect that Baroda District Central Co-operative Bank Limited is appointed as Administrator of the respondent Nos. 2 to 10 Societies which inter alia include respondent Nos. 2 and 4 as no Administrator was appointed so far as these two Societies are concerned. It is further stated that the respondent No. 10 is not under the management of the Administrator u/s 81 of the Act, as the said Society is under liquidation and the District Registrar is appointed as Liquidator of the said Society. It is stated that in view of these false statements made in the memo of petition and supported by the affidavit of the petitioner, the present writ petition requires to be dismissed in limine. It is further stated that because of the aforesaid false statements, the petitioner has obtained the interim relief and because of such interim relief, the valuable right of the petitioner was adversely affected and the respondent Nos. 2 to 10 are not in a position to cast their votes in the ensuing election.

8. The respondent Nos. 2 to 10 have further raised the preliminary objection against the maintainability of the petition which is filed at the stage when election process has already started. It is stated that the election process of the Society had started with the publication of the preliminary Voters List on 28-4-2003, pursuant to the order dated 23rd April, 2003 issued by the Election Officer. The final list was also published on 23rd May, 2003. The present petition was filed by the petitioner on 26th May, 2003 praying for the relief which

amounted to quashing and setting aside partly the final Voters List The petitioner has suppressed the aforesaid fact, that the final Voters List was published on 23rd May, 2003. In the petition, the order which was challenged was the impugned order dated 21st May, 2003, without challenging the publication of final Voters List dated 23rd May, 2003. The order dated 21st May, 2003 was implemented and given effect to by publication of the final Voters List dated 23rd May, 2003. Suppression of this material fact regarding the publication of the final Voters List dated 23rd May, 2003 is alleged to be deliberate as the said fact was not disclosed. It is further submitted that had this fact been disclosed, this Court would not have entertained this writ petition nor would have granted any interim relief.

9. As far as the merits of the matter are concerned, it is submitted that the Administrator appointed under the provisions of Section 81 of the Act is entitled to function as Managing Committee of the concerned Co-operative Societies as provided in Sub-section (2) of Section 81 of the Act. It is further submitted that right to appoint a delegate or representative as voter to vote on behalf of the concerned Society is vested in the Managing Committee and the said right can be validly exercised by the Administrator.

10. It is further stated that there is an alternative remedy available to the petitioner to challenge the election by way of filing an election petition u/s 145U of the Act after the election is over. In view of this specific provision contained in the Act, it is submitted that the Court should not exercise its jurisdiction under Articles 226 and 227 of the Constitution of India.

11. The petitioner has filed rejoinder-affidavit on 4th June, 2003. The petitioner has also filed reply on 10-6-2003 to the Civil Application filed by the respondent Nos. 2 to 10.

12. The main petition as well as the Civil Application both are placed before me for hearing, and since, the pleadings are virtually over both the parties have jointly requested to decide the matter either one way or the other finally and that is how the matter is taken up for final hearing today.

13. Heard Mr. B. S. Patel, learned Advocate appearing for the petitioner. He has submitted that the petitioner has mainly challenged the order passed by the respondent No. 1 on 21-5-2003 and this challenge would not at all affect the election process. It is further submitted that Section 28 of the Act deals with voting powers of Members. Sub-section (3) of Section 28 of the Act reads as under :

"Section 28. Voting powers of Members :--

(3) A Society which has invested any part of its funds in the shares of another Society, may appoint one of its members to vote on its behalf in the affairs of that other Society, and accordingly, such member shall have the right to vote on behalf of the first Society :

Provided that the first Society shall not appoint any of its members who is also its paid employee."

Mr. Patel, has therefore, submitted that Section 28(3) restricts the Society from appointing any person other than the Member of the Society and Proviso further restricts the Society from appointing a Member who is also its paid employee. While making appointments of respondent Nos. 2 to 10, the provisions made in this Section are violated. If such an appointment is made by the Society, the same would tantamount to disqualification of membership within the meaning of Section 145F(1)(a) of the Act. The petitioner has simply raised the objection by pointing out the above statutory provisions to the respondent No. 1 and in utter disregard of the said provisions the respondent No. 1 has passed the order on 21-5-2003 which is under challenge. Since, the respondent Nos. 2 to 10 are not entitled to cast their votes in the ensuing election, their names are bound to be excluded from the final Voters List. Mr. Patel has further submitted that the respondent No. 1 has not taken into consideration the above provisions contained in Section 28(3) of the Act and he has simply considered the provisions contained in Section 28(4) of the Act which is not applicable to the present case. Mr. Patel has further submitted that so far as the election of co-operative society is concerned, the Election Officer has to publish three different lists, which are provisional list, revised list and the final list. Before publishing the final Voters List, the Election Officer has to certainly take into consideration the objections received and as per the objections, necessary inclusion or exclusion can be made in the final list. Since, the inclusion of the respondent Nos. 2 to 10 in the provisional list was challenged by the petitioner by raising an objection, and since, the said objection was rejected by the respondent No. 1 by passing an order on 21-5-2003, and since, there is no appeal provided against the said order, the petitioner has every right to challenge the said order before this Court by invoking the extraordinary writ jurisdiction under Article 226 of the Constitution of India. Mr. Patel has further submitted that while passing an interim order on 27-5-2003, this Court directed the respondent No. 1 that if the respondent Nos. 2 to 10 Societies send the names of representatives under the provisions of Rule 5(2) of the Election Rules, that would be considered by the Collector while preparing final Voters List and the Collector being satisfied about the genuineness of the names of the representatives, would include the said names. Thus, the election process would not at all be affected by virtue of the relief claimed by the petitioner in the present petition.

14. In support of his submissions, Mr. Patel has relied on the decision of this Court in the case of Rameshbhai Dalsangbhai and Others etc. Vs. The Director, Agriculture Market and Rural Finance Office and Others, . In Para 31 of the said judgment, this Court has held :

"31. In short, the principle is clear that the final finality of the time-schedule of each stage of election programme is so important that the Courts have always enforced the said principle rigorously and it is in recognition of this principle that

while the Courts have consistently refused to arrest the election programme at any stage, at the same time, whenever this Court has intervened under Article 226 on the ground that the decision of the Election Officer is found to be *ex facie* illegal or without jurisdiction, the Court has always taken care to see that the relief is granted without arresting the election process and well in time."

The Court has further referred to the decision of this Court in the case of *Lajuben Jerambhai Bhil v. Ahmedabad Municipal Corporation and Ors.*, reported in 1993 (1) GCD 433. Para 4 of the said judgment reads as under :

"4. It is true that once the election process has started, it should be allowed to be completed without any interference of the Court and ordinarily, the remedy is by way of election petition challenging the election. However, the question of rejection of nomination papers is such a question that if it can be resolved in proper time without disturbing the election process, the Court should try to see that it is resolved so that on that question, the entire election not only for one seat, but for all the seats of that ward are not put into jeopardy and do not get set aside. However, if it is not possible to redress this grievance in time, the Court should refrain from interfering with the election process."

15. Mr. Patel has further relied on the judgment of this Court in the case of *Prahladbhai Shivram Patel and Ors. v. Director of Agriculture Marketing and Rural Finance and Ors.* 1998 (1) GLH 95, wherein this Court has taken the view that inclusion in or exclusion from the Voters List does not affect the election process. Mr. Patel has further relied on the Division Bench judgment of this Court in the case of *Mehsana District Co-operative Purchase and Sales Union Ltd. Vs. Dhadhusan Beej Utpadak, Rupantar Ane Vechan Karnari Sahkari Mandali Ltd. and Others*, , wherein it is held that a person whose name is entered in the preliminary list and the revised list, but his name does not find place in the final list can challenge the non-inclusion of the name in the final list by invoking writ jurisdiction of the High Court." This ratio can equally apply to the inclusion of the names which are not at all includible having regard to the provisions of the Act and the Rules made thereunder.

16. Mr. Patel has further relied on the Division Bench judgment of this Court in the case of *Lilabhai Ranabhai Desai and Ors. v. Pirabhai Volabhai Desai and Ors.* 2002 (3) GLR 2560, wherein this Court has taken the view that "Sub-rule (1) of Rule 75 of the Rules provides that an election petition calling in question any election may be presented by candidate or any voter within two months from the date of declaration of the result of the election. Thus, except the candidate or any voter, no one has a right to maintain an election petition, calling in question any election governed by the Act and the Rules." Though, these cases provide for exclusion of names from the Voters List, the same can equally apply to the inclusion of names in the Voters List if they are wrongly included in the Voters List by the Election Officer despite there being objections taken by the aggrieved party.

17. Mr. Patel has further relied on the decision of this Court in Special Civil Application No. 10547 of 1994 and other allied matters rendered on 2/ 6-9-1994, wherein also while entertaining the petition, this Court has directed the Election Officer to treat the petitioner for all purposes as qualified voters. Mr. Patel has also pressed into service, the decision of the Hon"ble Supreme Court in the case of Election Commission of India Through Secretary Vs. Ashok Kumar and Others, , wherein it is specifically held that any decision sought and rendered will not amount to "calling in question an election" if it subserves the process of the election and facilitates the completion of the election. Any thing done towards completing or in furtherance of the election proceedings cannot be described as questioning the election."

18. On the basis of the above legal position as well as on the basis of the facts and circumstances of the case, Mr. Patel has strongly urged that the impugned order is ex-facie illegal and contrary to the provisions of the Act as well as the Rules, and hence, it deserves to be quashed and set aside.

19. Mr. K.G. Vakharia, the learned Senior Counsel appearing along with Mr. M.K. Vakharia, learned Advocate for respondent Nos. 2 to 10 opposed the petition mainly on the following ground :

1. Suppression of material facts and presentation of misleading facts : The petitioner has obtained the interim order from this Court by suppressing the material facts and also by presenting misleading facts. The petition therefore deserves to be quashed and set aside on this very ground. In support of his submissions, he has relied on the decisions of this Court as well as of the Hon"ble Supreme Court. The said decisions are reported in Dr. Vijay Kumar Kathuria Vs. State of Haryana and Others, and AIR 1983 SC 105 : 1996 (J) GLR 741 ;

20. Mr. Vakharia has further submitted that the preparation of electoral roll is part of election process, and once it is started, the same should not be and cannot be stayed by the Court while exercising the writ jurisdiction under Articles 226 and 227 of the Constitution of India. He has further submitted that Section 74C of the Act contains provisions for conduct of elections, committees and officers of certain Societies and term of officers or members of committees. Such elections are subject to the provisions of Chapter XI-A and shall be concluded in the manner laid down by or under the said Chapter. Chapter XI-A of the Act deals with the election of committees and officers of certain Societies. Section 145B defines "Specified Society", which means a Society belonging to any of the categories specified in Section 74C. Section 145D talks about conduct of elections, and Section 145U talks about disputes relating to elections to be referred to the Tribunal. Sub-section (1) and (2) of Section 145U reads as under :

"Section 145U. Disputes relating to elections to be submitted to the Tribunal :--

(1) Notwithstanding anything contained in Section 96 or any other provisions of this Act, any dispute relating to an election shall be referred to the Tribunal.

(2) Such reference may be made by an aggrieved party by presenting an election petition to the Tribunal;

Provided that no such petition shall be made till after the final result of the election is declared and where any such petition is made it shall not be admitted by the Tribunal unless it is made within two months from the date of such declaration;

Provided further that, the Tribunal may admit any petition after the expiry of that period, if the petitioner satisfies the Tribunal that he had sufficient cause for not preferring the petition within the said period."

Mr. Vakharia has submitted that from the plain reading of the above Sections, it makes amply clear that the petitioner being an aggrieved party can certainly raise an election dispute by filing election petition after the result is declared and since there being an alternative remedy available to the petitioner, this Court should not exercise its writ jurisdiction under Articles 226 and 227 of the Constitution of India.

21. As far as legal position is concerned, Mr. Vakharia, in support of his submissions, has relied on the decision of this Court in the case of Patan Proper Fal and Shak Bhaji Kharid Vechan Sahakari Mandali Ltd., Mehsana v. Pali Shak Bhaji and Fal Ful Adi Ugadnaraoni Kharid Vechan Sahakari Mandali Ltd., Mehsana 1986 GLH 430 wherein it is held as under :

"..In that view of the Scheme of the Act, we are of the opinion that the preparation of electoral roll is an integral part of the process of election. If that is so, the question as to whether the roll should be modified at the instance of persons claiming to be voters or at the instance of persons objecting to the inclusion of the names of some persons in the Voters List is a matter relating to election, and having regard to the fact that it is a right conferred under the Act for which a special remedy has been provided, the Court should not exercise the jurisdiction in the matter since there is a provisional finality in the matters pertaining to various stages of election, and therefore, having regard to the recognised principle in the matter of public importance that election should be concluded as early as possible according to the time-schedule and all controversial matters as well as disputes arising out of the election including the right to vote or stand as a candidate should be postponed till after the elections are over so as to avoid impediment or hindrance in the election process, does not arise."

22. Mr. Vakharia has further relied on another Division Bench judgment of this Court in the case of Mehsana District Co-Operative Sales and Purchase Union Ltd. and Another Vs. State of Gujarat and Others, , wherein the above ratio was reaffirmed and petitions were not entertained.

23. My attention is further drawn to the decision of the Hon"ble Supreme Court in the case of Election Commission of India Through Secretary Vs. Ashok Kumar

and Others, . In Para 32 of the said judgment, the Hon''ble Supreme Court discussed the whole issue relating to the election as under :

"(1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.

(2) Any decision sought and rendered will not amount to "calling in question an election" if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the election proceedings cannot be described as questioning the election.

(3) Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of mala fide or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law.

(4) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the Court has been sought for merely to correct or smoothen progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time, the results are declared and stage is set for invoking the jurisdiction of the Court.

(5) The Court must be very circumspect and act with caution while entertaining any election dispute though not hit by the bar of Article 329(b) but brought to it during the pendency of election proceedings. The Court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings. Care has to be taken to see that there is no attempt to utilise the Court's indulgence by filing a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end. Needless to say that in the very nature of the things the Court would act with reluctance and shall not act, except on a clear and strong case for its intervention having been made out by raising the pleas with particulars and precision and supporting the same by necessary material."

24. My attention is further drawn to the another decision of the Hon''ble Supreme Court in the case of Shri Sant Sadguru Janardan Swami (Moingirid Maharaj) Sahakari Dugdha Utpadak Sanstha and Another Vs. State of Maharashtra and Others, , wherein it is held as under :

"The preparation of provisional list of voters, filing of objection against the provisional list of voters, consideration of the objection by the Collector and finalising the list of voters, all occur in the Rules which cover the entire process

of the election. The Rules framed for election of specified Societies are a complete code in itself providing for the entire process of election beginning from the stage of preparation of the provisional Voters List, decision on the objection by the Collector, finalisation of electoral rolls, holding of election and declaration of result of the election. In view of the Scheme of the Act and the Rules, the preparation of Voters List must be held to be part of the election process for constituting the Managing Committee of a specified Society."

25. Mr. Vakharia has further relied on the decision of this Court in the case of Akbarbhai Rahimbhai Momin v. State of Gujarat and Ors. 2000 (2) GLH 172, wherein it is held that "A grievance regarding validity of the Voters List can be made u/s 28 of the said Rules which provides the machinery for determination of an election only after the result of the election is declared. This is not an extraordinary or exceptional case that can justify interference under Article 226 of the Constitution of India by this Court. In fact, the law on this aspect in the particular context of preparation of a Voters List under this very Rule is since long settled by two Division Bench decisions of this Court in Patan P. F & S.S.M. Ltd. (1986 GLH 430) and Mehsana District Co-Operative Sales and Purchase Union Ltd. and Another Vs. State of Gujarat and Others, and is in no way diluted by the subsequent decision rendered in Mehsana District Co-operative Purchase and Sales Union Ltd. Vs. Dhadhusan Beej Utpadak, Rupantar Ane Vechan Karnari Sahkari Mandali Ltd. and Others, .

26. Mr. Sood, learned A.G.P. appearing for respondent No. 1 has also supported the order passed by the respondent No. 1 and further drawn my attention to the Division Bench decision of this Court in L.P.A. No. 365 of 2001 dated 4-5-2001 where in the same fact situation while dealing with the question of granting interim relief, the Court discussed the entire case-law on the subject and held that there was absolutely no warrant in issuing direction to the Authorised Officer to insert the names of the members of the Managing Committee of the respondent Nos. 1 to 4 in the final Voters List. The Division Bench has stayed the order of the learned single Judge giving certain directions during the pendency of the petition.

27. Even with regard to the merits of the matter, Mr. Vakharia has strongly supported the order passed by the respondent No. 1 and submitted that there is no infirmity or illegality found in the said order. For this purpose, he relied on the averments and submissions made in the affidavit-in-reply. Lastly, he has submitted that the petitioner has not challenged the final Voters List published on 23-5-2003 and in absence of the challenge to the final Voters List in the petition, the present petition is not maintainable.

28. After having heard the learned Advocates appearing for the respective parties and after having gone through the facts and circumstances of the case, and after having considered the authorities cited by the respective parties, I am of the view that since the election process has already been started, any interference, which is sought to be done by this Court at this stage, would

unnecessarily delay the election process, which is not desirable on any count. Apart from other grounds raised by Mr. Vakharia to oppose the relief claimed in the petition, it is sufficient to dismiss the petition at this stage only on the ground that the election process has already started and the final Voters List is published. Whether the names of the respondents Nos. 2 to 10 are rightly included in the final Voters List or whether the respondent No. 1 has committed any illegality or any breach of the provisions of the Act or Rules by including the names of respondent Nos. 2 to 10 in the final Voters List and by rejecting the objections raised by the petitioner, can certainly be looked into by the Tribunal on an election petition that may be filed by the petitioner who will be an aggrieved party, after the declaration of the result of the petition. The Courts have consistently deprecated the practice of entertaining petitions which would adversely affect the election process or to put it in the words used by the Hon"ble Supreme Court in the case of Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha & Anr, (supra), that when the election process has been set in motion, the High Court should not stay the continuation of the election process, even though, there may be some alleged illegality or breach of rules while preparing the electoral roll. Such an attempt would certainly amount to retarding, interrupting, protracting or stalling of election proceedings and this Court restrains itself from showing any indulgence in a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end, as observed by the Hon"ble Supreme Court, in the case of Election Commission of India v. Ashok Kumar (supra), in view of the peculiar facts and circumstances of the case and in light of the order passed by the respondent No. 1.

29. In the result, the petition fails. The interim relief granted earlier is vacated. Notice is discharged with no order as to costs. In view of disposal of the main petition, there shall be no orders on Civil Application No. 3590 of 2003 and the same shall stand disposed of accordingly.