

(2017) 02 BOM CK 0112
In the Bombay High Court
Case No : Writ Petition No.1669 of 2017

Pimpla Lokhande Shetkari Dhanya Adhikosh Seva Sahakari
Sanstha Ltd.

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 21-02-2017

Acts Referred:

Maharashtra Agricultural Produce Marketing (Regulation) Act, 1963 — Section 13(1)(a)
(i)
Maharashtra Co-operative Societies Rules, 1961 — Rule 10

Citation : (2017) 2 AIRBomR 800

Hon'ble Judges : S.B. Shukre, J.

Bench : Single Bench

Advocate : Shri R.N. Dhorde, Senior Counsel with Shri S.B. Ghatol Patil, Advocates, for the Petitioners; Shri A.V. Deshmukh, A.G.P, for the State; Shri S.H. Panchal, Advocate, for the Respondent No. 6; Shri S.K. Chavan, Advocate, for the Respondent Nos. 7 and 8

Final Decision : Allowed

Judgement

S.B. Shukre, J.— Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. The petitioners are the 15 Co-operative Societies, registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 (for short the Act, 1960) read with the Maharashtra Co-operative Societies Rules, 1961 (for short Rules, 1961). They are functioning within the market area for the Agricultural Produce Market Committee, Purna, District Parbhani (for short APMC, Purna), the respondent No.6. They claim that they have been duly classified as Agricultural Credit Societies and Multipurpose Co-operative Societies within the meaning of the Act, 1960 and Rules framed thereunder. The term of APMC, Purna having expired, elections to constitute new committee have been scheduled to be held. A list of provisional voters was prepared vide Notification dated 24/11/2016 and was published on 25/11/2016 by respondent No.4, the District Deputy Registrar,

Co-operative Societies, Parbhani. The names of the petitioner Societies, however, were not included in the provisional voters list. All of them, therefore, raised an objection, contending that they fulfilled the criteria of Section 13(1)(a)(i) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (for short the APMC Act). An enquiry committee was constituted by the respondent No.4 to verify the correctness or otherwise of the contention of the petitioner Societies. The enquiry committee consisted of three members, the Assistant Registrar, Co-operative Societies (respondent No.5) and two Co-operative Officers of Grade I of the Co-operative Societies. The enquiry committee made an enquiry and submitted a report that the petitioner Societies fulfilled all the conditions of Section 13(1)(a)(i) of the APMC Act and, therefore, recommended that their names be included in the final voters list. The recommendation of the enquiry committee, however, was turned down by respondent No.4. The respondent No.4, thus, without the names of the petitioner Societies, published the final voters list on 25/1/2017. The petitioner Societies have a common grievance against exclusion of their names in the final voters list prepared for constituting market committee of APMC, Purna and for its redressal, have approached this Court by invoking its extraordinary jurisdiction under Articles 226 and 227 of the Constitution of India.

3. Shri Dhorde, learned Senior Counsel for the petitioners submits that, under Section 13(1)(a)(i), a market committee must consist, inter alia, of 11 agriculturists, who must be elected by members of the managing committees of the Agricultural Credit Societies and Multipurpose Co-operative Societies, functioning in the market area of the concerned APMC. He submits that, this Section denotes as to who could be the voters entitled to elect 11 agriculturists. He further submits that, the expression "shall be elected by members of the Managing Committees of the Agricultural Credit Societies and Multipurpose Co-operative Societies (within the meaning of the Maharashtra Co-operative Societies Act, 1960 and the rules made thereunder)" is significant and has to be understood by its natural meaning. He further submits that, this expression essentially prescribes a qualification as to who could be a voter for electing the 11 agriculturists on the market committee of an agricultural produce market committee. He further submits that, this electorate, as indicated by the plain language of the Section comprises agricultural credit societies as well as multipurpose cooperative societies and the Section does not require that a registered society should be an agricultural credit society as well as a multipurpose co-operative society at one and the same time. According to him, it is enough for a registered society to be an agricultural credit society or a multipurpose co-operative society in order to be entitled to vote for the 11 agriculturists. He further submits that, the word "and" appearing in the expression would have to be understood as "in addition to" and not "in combination of" the society previously referred to in the expression. He also submits that, if this was not so, the said expression would not have contained such words as "agricultural credit societies" and "multipurpose co-operative

societies" and it would have been enough to describe the electorate by a common expression such as "agricultural credit multipurpose co-operative societies"

4. Learned Senior Counsel for the petitioners further submits that, all the petitioner Societies have been registered under Section 9(1) of the Act, 1960 and have been classified under Section 12(1) of the Act, 1960 as resource societies with sub-classification as "service resource societies". He points out that, under Rule 10(1) of the Rules, 1961, 10 classes of Societies have been delineated, and the class "resource society" finds its place at Item No.8, and it has been sub-classified into 3 subclasses with service resource society being the sub-class "C" and service co-operative and multipurpose co-operative societies being the examples of the service resource society, as shown in this rule. Thus, he submits that, the petitioner Societies are the multipurpose co-operative societies within the meaning of the Act, 1960 and Rules framed thereunder and, therefore, constitute an electorate for electing agriculturists as per Section 13(1)(a)(i). He submits that, even a bare perusal of the bye-laws of the petitioner Societies, would be enough to confirm such a conclusion, although it is not necessary as the certificates issued by the Assistant Registrar, Co-operative Societies, Purna to all the petitioner Societies show that they have been classified as resource societies with sub-class as "service resource society". He also submits that, under Section 10 of the Act, 1960, a certificate of registration signed by the Registrar is a conclusive evidence that the Society therein mentioned, is duly registered, unless it is proved that the registration of the Society has been cancelled. He further submits that, Section 12 of the Act, 1960 casts a mandatory duty upon a Registrar to classify the Society into one or the other classes of Society, defined in Section 2 and also into sub-class as prescribed under the Rules. Since this has been done by the Registrar of Co-operative Societies, now the respondent No.4, District Deputy Registrar cannot be permitted to once again examine, without any authority under the law, the correctness or otherwise of the classification and subclassification of the petitioner Societies and independently arrive at a decision that they are not the Societies constituting an electorate under Section 13(1)(a)(i) of the APMC Act. He also submits that, there are at least 19 Societies which have been similarly classified and sub-classified by the Registrar of Societies, whose names have been included in the final voters list by the respondent No.4 and, therefore, on the ground of parity even the petitioner Societies are entitled for being included in the final voters list.

5. Shri A.V. Deshmukh, learned Assistant Government Pleader appearing for respondent Nos.1 to 5 submits that, Section 13(1)(a)(i) requires that a registered co-operative Society to be entitled to elect the agriculturists must be not only an agricultural credit society, but also be a multipurpose cooperative society and the word "and" appearing in between the words "agricultural credit societies" and "multipurpose cooperative societies" must be understood as conveying a meaning of "in addition to" and not "or". He submits that, this would

mean that a registered co-operative society must be of combination of agricultural co-operative society as well as multipurpose co-operative society and if it is found that it lacks in the requirement of either of these societies, it would not be entitled to be included in the voters list. He submits that, in order to ascertain whether a registered co-operative society is also an agricultural credit society, one has to not only consider various sections of the Act, 1960 and relevant provisions of Rules, 1961, but also the model bye-laws which require certain objects and acts to be compulsorily set and performed by a registered society, in order to qualify itself to be called an agricultural credit society. For this purpose, he has invited my attention to the objects of the relevant Acts, the Act, 1960 and the APMC Act as well as provisions of Section 27 and 73(C-A) of the Act, 1960, Rules 10 and 12 of the Rules, 1961 and Rule 36 of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Rules, 1967. He further submits that, this is all the more necessary because the provisions of Section 13(1)(a)(i) indicate that, on the one hand, agricultural credit society and multipurpose co-operative society, within the meaning of the Act, 1960 and the Rules made thereunder, are entitled to vote; and on the other hand, the Act, 1960 does not define in so many words the expressions "agricultural credit societies" and "multipurpose co-operative societies".

6. Shri Deshmukh, learned Assistant Government Pleader further submits that, a bare perusal of the bye-laws of the petitioner Societies would be enough to reach a conclusion that they are not involved in direct lending to its members, whereas the model bye-laws require that, an agricultural credit society must be directly making available loan to its members for undertaking various agricultural activities. He also points out from the bye-laws of the petitioner Societies that, their membership is open to all, including non-agriculturists and whereas an agricultural credit society comprises only agriculturists as its members. Therefore, he submits that, the respondent No.4 has rightly rejected the objection of the petitioner Societies for inclusion of their names in the final voters list. He also submits that, bye-laws and 19 other Societies which are said to be similarly situated Societies by the petitioners, show that they are involved in the activity of direct lending to its members and, therefore, they could not be considered as similarly situated with the petitioner Societies. He submits that, even if, for the sake of argument, it is accepted that the other 19 Societies are similarly situated, still, as an officer of the Court, he would submit that, the respondent No.4 ought not to have included their names in the voters list and if it is found out that he has committed a breach of duty in this regard, the State would take appropriate action in the matter. Learned Assistant Government Pleader, however, does not dispute that the petitioner Societies being classified as "resource societies" with sub-classification as "service resource societies" are the "multipurpose co-operative societies".

7. Learned counsel for respondent No.6 APMC supports the case of the petitioner Societies. But, learned counsel for the interveners is with the learned A.G.P. and has advanced almost similar arguments as learned A.G.P.

8. Before the rival submissions are dealt with, it must be stated here that the certificates issued by the Registrar of Cooperative Societies show that petitioner Societies are "Resource Societies" and are sub-classified as "Service Resource Societies". This classification with its sub-classification falls in Item No.8, Rule 10(1) of the Rules, 1961 read with Section 12(1) of the Act, 1961. It has been made by the Registrar under Section 12(1) of the Act, 1960 and accordingly he has issued certificates of registration to all petitioner Societies. These certificates, as prescribed by Section 10, are conclusive evidence of due registration of Societies unless it is proved that the registration is cancelled. In fact, in this case there is no dispute that the petitioner Societies are duly registered and that they are at least the examples of Multipurpose Co-operative Societies, as shown in Rule 10(1), Item No.8 of the Rules, 1961, though there is a dispute about they being examples of Agricultural Credit Societies simultaneously. This would impel us straightaway to deal with the heart of the controversy involved in this case and its resolution would provide an answer to the question posed by it.

9. The core of the arguments of the learned Senior Counsel as well as learned Assistant Government Pleader and learned counsel for the interveners relates to meaning of the expression "agricultural credit societies" and "multipurpose cooperative societies" used in Section 13(1)(a)(i). According to learned Senior counsel, the word "societies" used in this expression is to be considered as constituting two separate groups, one of "agricultural credit societies" and the other of "multipurpose co-operative societies", meaning thereby that both these Societies in their own right are entitled to vote, which, however, is seriously questioned by the learned Assistant Government Pleader and learned counsel for the interveners. In their opinion, the Societies indicated in this expression, do not constitute two separate groups and form one and the same group, conveying an indication that a registered co-operative society must be a "credit society" as well as "multipurpose society" at one and the same time. They also agree that, to understand the meaning of this expression, Section 13(1)(a)(i) requires that, it must be found out within the four-corners of the Act, 1960 and the Rules thereunder though the learned Assistant Government Pleader puts a rider to the agreement. He emphasizes that, in addition to the provisions of the Act, 1960 and Rules made thereunder, one has to look beyond, especially into the bye-laws of the Societies, Model Bye-laws and aims and objects of APMC Act, which is the parent Act. In order to solve the controversy, it would be useful to reproduce here Section 13(1)(a)(i) of the APMC Act, as well as the provisions of Rule 10(1) of the Rules, 1961.

Section 13 of the APMC Act

13. Constitution of Market Committees.

(1) Subject to the provisions of Sub-section (2), every Market Committee consists of the following members, namely :-

(a) fifteen agriculturists residing in the market area (being persons whose names

appear in the voter's list for the concerned constituency and who are not less than twenty one years of age on the date specified, from time to time, by the Collector or the District Deputy Registrar, as the case may be, in this behalf), as specified below :

(i) eleven (of which, two shall be women, one shall be a person belonging to Other Backward Classes and one shall be a person belonging to De-notified Tribes (Vimukta Jatis) or Nomadic Tribes) shall be elected by members of the Managing Committees of the Agricultural Credit Societies and Multi-purpose Co-operative Societies (within the meaning of the Maharashtra Cooperative Societies Act, 1960 and the rules made thereunder), functioning in the market area:

Provided that, where the market Committee is situated in Tribal areas, one person belonging to the Scheduled Tribes shall be elected in place of the election of the person belonging to the De-notified Tribes (Vimukta Jatis) or Nomadic Tribes as aforesaid;"

Rule 10 of the Maharashtra Co-operative Societies Rules, 1961

10. Classification and sub-classification of societies:

(1) After registration of a society, the Registrar shall classify the society into one or other of the following classes and sub-classes of societies prescribed below according to the principal object provided in its bye-laws :

Class

Sub-Class

Examples of societies falling in the class or subclass, as the case may be

1

2

3

1

Agricultural Society

(a)

Marketing Society

All Purchase and Sale Unions and Marketing Societies of Agricultural Produce

(b)

Other Agricultural Societies

Dairy and Cattle Breeding Societies

1A

Crop Protection Society

...

...

1B

Life Irrigation Society

...

...

2

Consumers? Society

...

Stores and Canteens

3

Co-operative Bank

(a)

Central Bank

District Central Cooperative Banks

(b)

Other Banks

Urban Banks

3A.

Co-operative Agriculture and Rural Multipurpose Development Bank having provisions in their bye-laws to advance loans to Cooperative Societies

4

Farming Society

(a)

Collective Farming Society

Farming societies where major area of lands is acquired from outside agency for cultivation by members

(b)

Joint Farming Society

Societies where the major area of land brought together for cultivation is held by members

(c)

Dairy Farming Society

Farming societies undertaking dairy activities complimentary to their arable farming activities or vice versa.

5

Housing Society

(a)

Tenant Ownership Housing Society

Housing Societies where land is held either on leasehold or free-hold basis by Societies and houses are owned or are to be owned by members.

(b)

Tenant Copartnership Housing Society

Housing Societies which hold both land and buildings either on leasehold or free-hold basis and allot them to their members

(c)

Other Housing Societies

House Mortgage Societies and House Construction Societies

6

Processing Society

(a)

Agricultural Processing Society

Societies, which process agricultural produce like Co-operative Sugar Factories and Oil mills

(b)

Industrial Processing Society

Wool Processing and Tanners? Societies

7

Producers? Society

(a)

Industrial Producers? Society

Weavers? and Carpenters? Societies

(b)

Labourers? Industrial Society

Forest Labourers? Societies and Labour Contract Societies

(c) *****

8

Resource Society

(a)

Credit Resource Society

Agricultural Credit, Thrift, Urban Credit and Salary Earners? Societies

(b)

Non-Credit Resource Society

Seeds and Implements and Agricultural Requisites Societies

(c)

Service Resource Society

Service Co-operative and Multi-purpose Co-operative Societies

9

General Society

(a)

Social

Better Living Societies and Education Societies

(b)

Commercial

Insurance and Motor Transport Societies

(c)

Other

Not falling in either of the above sub-classes

10

Apex Societies

The Maharashtra State Cooperative Bank

10. A bare perusal of Section 13(1)(a)(i) of the APMC Act shows that its language is clear and unequivocal. It lays down that, 11 agriculturists are to be elected by members of the managing committees of the agricultural credit societies and multipurpose co-operative societies. It is also clear that, the Societies referred to in this Section are to be identified so, by referring to the provisions of the Act, 1960 and Rules made thereunder. It is significant to note that, this section uses the word "societies" twice, thereby, as rightly argued by learned Senior Counsel for the petitioners, indicating the clear intention of the legislature to distinguish between agricultural credit societies and multipurpose co-operative societies as two separate groups. If this were not so, and the legislature intended to require the societies to be a combination of both, agricultural credit societies and multipurpose co-operative societies, it would have used a composite expression like "agricultural credit and multipurpose co-operative societies", but it has not.

11. It is settled law that, if the language used in a provision is clear and unambiguous, which is the case here, the words used in the provision must be understood by their literal and ordinary sense, unless that is at variance with the intention of the legislature, to be collected from the statute itself, or leads to any manifest absurdity or inconsistency, in which case the language may be varied or modified, so as to remove such absurdity or repugnancy and no further. A useful reference in this regard may be had to the law laid down by the Hon'ble Apex Court in the cases of *Harshad S. Mehta v. State of Maharashtra* reported in (2001) 8 SCC 257 (para 34), *Patangrao Kadam v. Prithviraj Sayajirao Yadav Deshmukh & ors.*, reported in AIR 2001 SC 1121 and *Pandian Chemicals Ltd. v. Commissioner of Income Tax* reported in 2003(5) SCC 590..

12. Use of the word "societies" twice while referring to different classes of societies and separation of such different classes of society by the word "and" coming in between the two classes of societies, all clearly and plainly show that this provision of law makes two societies i.e. agricultural credit societies and multipurpose co-operative societies as the voters qualified to elect 11 agriculturists. The word "and" used to separate two different groups of societies in this section construed in its ordinary and grammatical sense would only convey something "in addition to" and something "more than one group of societies", thereby expressly conferring a right to vote to both the societies, agricultural credit society and multipurpose co-operative society, constituting two district entities and in their own right. Such interpretation does not lead to any absurdity or repugnancy, rather facilitates the intention of the legislature.

13. Relying upon *Mohd. Abubakar Siddique v. Mustafa Shahidul Islam* reported in AIR (SC) 2000 731, wherein the Hon'ble Apex Court, interpreting the provisions of Section 110(3)(b) of the Representation of the People Act, 1951, held that, the word "and" used in that Section is in addition to another requirement of that Section and not as an alternative to the other requirement, learned A.G.P. has

submitted that the word "and" used in Section 13(1)(a)(i) of the APMC Act also has to be understood as requiring a registered society to be both credit and multi-purpose society simultaneously. Learned Senior Counsel for the petitioners does not dispute the proposition that the word "and" used in this Section must be understood as "in addition to", but disagrees that it conveys a meaning that the society be a "combination" of both credit and multipurpose Society. I think learned Senior Counsel is right. The plain meaning of the word "and" only means "in addition to" the previous group of societies referred to in the Section and this meaning does not take us further to comprehend that previous group of societies and subsequent group of societies must combine themselves to form one and the only group of "credit and multipurpose societies". In my view, the plain meaning of the word "and" is so manifestly clear and consistent with the intention of the legislature, that it requires no interpretation at all. Reading into it not just "in addition to" but also "in combination with" would only be to distort and twist the language of the Section (See Patangrao Kadam, supra). Such an interpretation would also be inconsistent with the intention of the legislature, as seen from the object of the APMC Act and scheme of its Section 13.

14. Overall aim of the APMC Act is to develop and regulate marketing of agricultural and certain other produce in market areas of the agricultural produce marketing committees so as to uplift the agriculturists economically, physically, mentally and materially by doing away with the system of middlemen and providing a platform for profitable sale of agricultural and other produce. Section 13 provides for a comprehensive and specialised scheme to give representations to diverse groups and individuals operating in the market area and making contributions to take forward the cause of the agriculturists, on the market committees, by conferring upon each of them a right to elect their representatives in a stratified manner. These groups and individuals are such as agricultural credit societies, multi-purpose co-operative societies, traders, commission agents, Hamals, Weighmen and others having something to do with agriculturists or their produce. This would only show that the intention of the legislature in coming out with such a specialised scheme to constitute the market committee is to provide as diverse an electorate as possible and to widen the base of the market committee so that the stock and staple of the agriculturists are nurtured in all possible ways. This is the reason why Section 13(1)(a)(i) confers right to vote on, not just one type of societies but two distinct types, one of credit societies and second of multi-purpose co-operative societies, each having franchise in its own right. Such an interpretation is consistent with the intention of the legislature and any attempt to restrict it to one type of group of societies which function as credit as well as multi-purpose co-operative societies simultaneously, would only lead to constriction of the electorate defeating the very intention of the legislature.

15. Above discussion would lead us to an unmistakable conclusion that Section 13(1)(a)(i) APMC Act, expressly creates a constituency for 11 agriculturists comprising two separate groups of societies i.e. agricultural credit societies as

well as multipurpose co-operative societies. This would mean that, just as an agricultural credit society is entitled to elect 11 agriculturists, a multipurpose co-operative society is also equally entitled to do so. It is a different matter if a registered society is a two-in-one society or a credit and multi-purpose society at one and the same time, and in such a case too, the society answering both the requirements of this Section, would be a qualified voter.

16. The view so taken by me also receives support from the observations made by the Division Bench of this Court in *Devendra Kashirao Deshmukh v. Sub-Divisional Officer, Katol* reported in 1995(1) Mh.L.J. 716. Of course, these observations have been made, as rightly submitted by learned A.G.P., in the light of the facts peculiar to that case. The Division Bench dealt with a question whether a sale-purchase cooperative society could be included in the voters list for election to APMC, as provided in Section 13(1)(c), and answered it, upon examination of provisions of Section 2 of the Act, 1960 and Rule 10 of the Rules, 1961, that it was not a marketing society in accordance with the concept of such a society under the Act, 1960. Nevertheless, in the process, the Division Bench also examined the ancillary issue of the Societies finding their representations as "resource societies" upon the market committee and found that, a multipurpose society is expressly included in and separately given representation upon the market committee under Section 13(1)(a)(i) of the APMC Act (Page 147). This finding given on an ancillary issue is upon a thorough scrutiny of Section 13(1)(a) (i) and lays down a proposition of law and so, would bind us. The relevant observations appearing in para 24 are reproduced thus :

"24. Careful scrutiny of Section 113(1)(a) (sic 13(1) (a)) shows that in creating a constituency for Cooperative Societies it includes those Co-operative Societies which fall under item 8 in rule 10 of the rules framed under the M.C.S. Act, viz., "Resource Societies", because the Agricultural Credit Societies and Multi-purpose Co-operative Societies are both "Resource Societies" covered by the said item. The definition of the expression "Resource Society" given in Section 2(25) of the M.C.S. Act shows that it is a society the object of which is to obtain for its members on credit, goods or services required by them. It is thus clear that representation under Section 13(1) of the A.P.M.C. Act is sought to be given upon the Market Committee to the representations of the Resource Societies referred to therein. However, the broad scheme of Section 13(1)(c) of the A.P.M.C. Act shows that it intends to give representation upon the Market Committee to the representations of the Co-operative Societies which are essentially Processing and the Marketing Societies doing business in the Market Area of the Market Committee in question. When a Multipurpose Society is expressly included in and is separately given representation upon the Market Committee under Section 13(1)(a) of the A.P.M.C. Act, it cannot be said to be intended by the legislature that it should get further representation upon the Market Committee under clause (c) of Section 13(1) of the Act as a Marketing Society also because it makes purchases of certain agricultural produce in the Market area of the Market Committee in question for its Members or for its

principal business."

17. The discussion thus far would clearly show that, under Section 13(1)(a)(i) not only an agricultural credit society but also a multipurpose co-operative society is qualified to elect 11 agriculturists upon the market committee, and it is enough that the society falls in either of these two separate groups of Societies.

18. Learned A.G.P., by referring to aims and objects of APMC Act, the Act, 1960, Model Bye-laws, bye-laws of the petitioner societies and various other provisions, particularly the provisions of Sections 27 and 73(CA) of the Act, 1960, Rules 10 and 12 of the Rules, 1961 and Rule 36 of the Maharashtra Agricultural Produce Marketing Rules, 1967, has made a strenuous effort to demonstrate as to how the petitioner societies are not qualified to be called or classified as agricultural credit societies. The expression "agricultural credit societies" or for that matter even the expression "multipurpose co-operative societies" are not defined in so many words in the Act, 1960, but in Rule 10(1) of the Rules, 1961, by way of illustration, one can see that these societies are all put together in the class of "Resource Societies" with "agricultural credit society" being one of the examples of sub-class (a) "Credit Resource Society" and "multipurpose co-operative society" being one of the examples of sub-class (c) "Service Resource Society". In the instant case, there is no dispute about the fact that all the petitioner societies are multipurpose co-operative societies, and in fact the certificate of registration issued to each of the petitioner societies also classifies each of them to be Resource Society, falling in subclass (c) "Service Resource Society". Even their bye-laws show that the petitioner Societies are multipurpose co-operative societies falling in the class of "Resource Society", sub-class (c) of "Service Resource Society". In this background, the question of identifying the petitioner societies also as agricultural credit societies falling in sub-class (a) "Credit Resource Society" would deserve consideration only if it is necessary to do so. But the discussion made in the earlier paragraphs and the conclusions drawn therein have obviated any such need. I have already found that, apart from one type of Society, an agricultural credit society, even the other type of Society, a multipurpose cooperative society is qualified for electing the 11 agriculturists upon the market committee. Therefore, I find that, the argument of learned A.G.P. made in this behalf need not be considered and even if it is considered, it would be only of academic nature, serving no purpose.

19. There is a ground of parity raised in this petition by the petitioner Societies on the basis of which it is contended that, just like other similarly situated societies, they should also be given a voting right. I do not think it necessary to consider this ground, as on other count, I have found petitioner Societies as eligible to be included in the voters list.

20. There are a few more cases, relied upon by learned A.G.P. They are as under:

(1) Baburao Chanappa Chakote v. Brihmadeo Krishnat Mane, [1980 Mh.L.J. 75]

(2) Tanajirao Rangrao Patil v. Kolhapur Agricultural Produce Market Committee,

21. In the case of Baburao (supra), the Division Bench of this Court has taken a view that the classification of the societies made in the Act, 1960 is not exhaustive, but is only illustrative. There is no dispute about this principle, but, as we would know from the discussion made earlier, no occasion has arisen for considering application of this principle to the facts and circumstances of this case.

22. In the second case of Tanajirao (supra), it is held that right to vote is a creation of statute and, therefore, it must be understood that just as a statute can create such a right, it can also abolish the right and that if the statute provides for voting right to a particular class of society, it should not be extended to another class of society not given the right in express manner. I have already found that, multipurpose co-operative societies, which the petitioners are, have been expressly conferred with voting right under Section 13(1)(a)(i) of the APMC Act and, therefore, this case would render no assistance to the case of the respondents No.1 to 5 and interveners. In fact, respondent No.4 has committed a serious illegality in the instant case by recording a fact that petitioner Societies are not qualified to vote as they are not agricultural credit societies, though they are multipurpose co-operative societies, when this latter group of Societies has been expressly and equally conferred with voting right just as the former group of Societies.

23. There is one more argument of learned Senior Counsel for the petitioners, which has not been so far addressed appropriately and as such, needs to be considered now before I part with the judgment. He submits that, power to accord registration to the Society and power to classify the Society respectively under Sections 9 and 12 of the Act, 1960 are with the Registrar of the Co-operative Societies and once he exercises them by granting registration under Section 10 of the Act, 1960, the exercise constitutes a conclusive evidence of due registration of the Society till the time its cancellation is proved and, therefore, an authority like the respondent No.4, the District Deputy Registrar cannot once again examine the correctness or otherwise of the classification and sub-classification of the Society, which the respondent No.4 has done in case of the petitioner Societies. According to him, this is another patent illegality committed by the respondent No.4. With due respect, I must say, by the impugned order, the respondent No.4 has not made any attempt to re-classify the petitioner Societies and all that he has said is that, they do not answer the description of the agricultural credit societies, which are the examples of sub-class (a) "Credit Resource Society" of the class "Resource Society", Item No.8 Rule 10(1) of the Rules, 1961 as he believed, albeit erroneously, that, it is the requirement of Section 13(1)(a)(i) that a society must be both a credit society and a multi-purpose co-operative society at one and the same time. Therefore, the argument cannot be accepted.

24. In the result, the Writ Petition deserves to be allowed. The order dated

24/1/2017, passed by the District Deputy Registrar, Co-operative Societies, Parbhani is hereby quashed and set aside. It is directed that the names of the petitioners Societies be included in the final voters" list. Rule is made absolute in these terms. No costs. 25. The observations made in this order are confined to the issues arising on facts and determined in this petition only and shall not come in the way of the petitioners in other petitions, if any.