

(2026) 08 BOM CK 3030

In the Bombay High Court, Aurangabad Bench

Case No : WRIT PETITION NO.11022 OF 2025

Vasant Sharanappa Kasture

APPELLANT

Vs

The State Of Maharashtra & Ors.

RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Maharashtra Co-operative Societies Act, 1960 — Section 91, 11, 22, sub-Section (1A) of Section 22, (1A) of Section 22, 25A, 38
Maharashtra Co-operative Societies (Election to Committee) Rules — Rule 78
Constitution of India — Article 227

Citation : (2026) 08 BOM CK 3030

Hon'ble Judges : S. G. Chapalgaonkar, J

Bench : Single Bench

Advocate : Mr. V. D. Hon, Mr. A. V. Hon, Mr. D. B. Bhange, Mr. P. P. Uttarwar, Mr. K. J. Suryawanshi

Final Decision : Dismissed

Judgement

1. The petitioner impugns order dated 20.08.2025 passed by Hon'ble Minister for Co-operation, Maharashtra State, Mumbai in Revision Application No. 92 of 2025, whereby order dated 14.01.2025 passed by Divisional Joint Registrar, Co-operative Societies, Latur Division, Latur in Appeal No. 91 of 2024 as well as order dated 25.09.2024 passed by District Deputy Registrar, Co-operative Societies, Nanded, have been set aside and matter is relegated back to District Deputy Registrar for consideration afresh.

2. Shri Tuljabhavani Ginning and Pressing Sahakari Society Ltd./respondent No. 5 is a co-operative society registered under provisions of Maharashtra Co-operative Societies Act, 1960 (For short, "Act of 1960"). The elections for Managing Committee of respondent No.5 were due. One Shesharao Kerba Rokde had challenged inclusion of 355 voters in voters list by filing Writ Petition No.2164 of 2023. The said writ petition was disposed of with liberty to avail alternate remedy of filing post-election dispute in accordance with Section 91 of Act of 1960 read with Rule 78 of the Maharashtra Co-operative Societies (Election to

Committee) Rules (for short, "the MCS Rules"). Respondent No.6 filed election dispute before Co-operative Court as well as application under Section 11 of Act of 1960 before District Deputy Registrar, Nanded, objecting membership of 355 voters. However, said application was dismissed. Respondent No.6 had assailed said order before Divisional Joint Registrar in Appeal No.91 of 2024. However, said appeal was dismissed. Thereafter, respondent No. 6 filed Revision Application No.92 of 2025 before Hon'ble Minister, which came to be allowed and matter came to be relegated back to District Deputy Registrar to cause afresh inquiry in terms of Section 11 of Act of 1960. Hence, this writ petition.

3. Mr. V. D. Hon, learned Senior Advocate appearing for petitioner submits that elected body has already taken charge and is looking after affairs of society after election of Managing Committee of respondent no.5 Society. Respondent No.6 has initiated two simultaneous proceedings raising challenge to election before Co-operative Court and other proceeding under Section 11 of Act of 1960 raising challenge to membership of voters before District Deputy Registrar. Two simultaneous proceedings for same subject matter or same cause of action are not maintainable. The authorities had rightly rejected the application filed under Section 11 of Act of 1960. However, Hon'ble Minister relegated matter back on erroneous count. According to Mr. Hon, the issue of membership cannot be gone into in enquiry under Section 11 of Act of 1960. Respondent No.6 can agitate all his grievances in pending dispute before Co-operative Court.

4. Per contra, Mr. Suryawanshi, learned advocate appearing for respondent no.6 submits that the challenge to validity of election has been raised by filing a dispute under Section 91 before Co-operative Court. However, the issue as to validity of membership of voters needs adjudication under Section 11 of Act of 1960 by the Registrar. In present case, respondent no.6 took a specific stand that by manipulating "J" register, names of large number of persons were incorporated as members. Such names were incorporated in voters' list. The persons so added or admitted as members have never paid membership fees. No resolution admitting them as members is passed. Even they are not eligible to be members of society as they are not holding agricultural land within area of operation of society. Relying upon observations of Division Bench of this Court in case of *Karbhari Maruti Agawan v. State of Maharashtra*, reported in 1994 (2) Mh.L.J. 1527, he submits that Registrar has all powers to go into questions of qualifications and disqualifications of the members even when provisional list of voters was published. The Registrar can exercise his powers suo moto also. The provisions in the statute are not enabling, but they speak about the duty cast on the Registrar.

5. Having considered submissions advanced by learned advocates appearing for respective parties, this Court finds that proceeding under Section 11 of Act of 1960 was initiated by respondent no.6 before respondent no.3 against respondent no.5 Society and respondent no.4 Assistant Registrar. The petitioner was neither party to said proceeding at any stage of proceeding. The writ petition

is not filed by society, but the petitioner, who claims himself to be elected member of Managing Committee has approached this Court by way of this writ petition. Prima facie, the society/respondent no.5 is not aggrieved with the order impugned. Although petitioner can be said to be interested person, he cannot be treated as aggrieved person by impugned order passed by Hon'ble Minister, whereby proceeding was relegated back to respondent no.3 for inquiry afresh under Section 11 of Act of 1960 as to membership of society.

6. Even otherwise, this Court finds that respondent no.6 has filed a dispute under Section 91 of Act of 1960 with following prayer :

"That, the dispute of disputant may kindly be allowed as under -

(A) That, the election by the votes of such bogus member is illegal and null and void and same may kindly be set aside and oblige.

(B) That, any other relief to which this Hon'ble Court may deems fit, may kindly be awarded in favour of the disputants."

7. In light of aforesaid prayers, Co-operative Court will deal with the issue as to validity of election. So far as proceeding initiated by respondent no.6 under Section 11 of Act of 1960, the objection is taken to incorporation of 355 members in the register of membership. At this stage, reference can be made to Section 11 of Act of 1960, which reads thus :

"11. Power of Registrar to decide certain questions.

— When, [* * ** **] any question arises whether a person is an agriculturist or not, or whether any person resides in the area of operation of the society or not, [or whether a person is or is not engaged in or carrying on any profession, business or employment, or whether a person belongs or does not belong to such class of persons as declared under sub-Section (1A) of Section 22 and has or has not incurred a disqualification under that sub-Section,] such question shall be decided by the Registrar [and his decision shall be final, but no decision adverse to any such person shall be given without giving him an opportunity of being heard.]"

8. The plain reading of aforesaid provision suggests that it is duty of Registrar to examine whether a person is an agriculturist or not, whether he resides in the area of operation of society or not, or whether he is engaged in business or profession as contemplated under Section (1A) of Section 22 or whether he has incurred disqualification.

9. In case of Karbhari Maruti Agawan (supra) this Court observed that, the proviso to Section 25A points out duty of Registrar to direct society to remove names of dead persons or persons who have ceased to be members or who have incurred disqualification from the register of members maintained by society. Registrar has power of supervision over the Co-operative Societies. All these powers do not stand suspended merely because provisional list of voters is published by Collector. Such a limitation on the powers of Registrar cannot be held, since there is none in the concerned statute. Under Section 38 of Act of 1960, a society is bound to keep register of its members and it is needless to say

that such register should be truthful one. The Registrar is certainly duty bound to inquire into the qualification and disqualification of members when such questions are raised before him.

10. In light of aforesaid exposition of law, if impugned order passed by Hon'ble Minister is examined, he has rightly remanded matter back for purpose of an inquiry under Section 11 of Act of 1960 as regards to 355 members whose membership has been objected. In this backdrop, the election dispute filed under Section 91 cannot be said to be parallel proceeding as contended by petitioner.

11. Hence, this Court finds no reason to entertain writ petition under Article 227 of the Constitution of India.

12. Writ petition stands dismissed.