



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.5367 OF 2026

Abdul Sattar Abdul Nabi and Others ... Petitioners

Versus

Dilip B. Bankar Patil and Others ... Respondents

.....

Mr. V. D. Salunke, Advocate for Petitioners

Mr. V. D. Hon, Senior Advocate i/b Mr. A. S. Kulkarni, Advocate for Respondent No.1

Mr. S. K. Kadam, Advocate for Respondent No.2

Mr. P. B. Kadam, Advocate for Respondent No.3

.....

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

DATED : 28th MAY, 2026.

ORDER :

1. The present petitioners are impugning order dated 18.05.2026 passed by District Co-operative Election Officer and Divisional Joint Registrar, Co-operative Societies, Chhatrapati Sambhajinagar, whereby objection filed by respondent no.1 to inclusion of name of petitioners in the provisional voters list has been allowed.

2. The election of respondent no.3 – The Aurangabad District Central Co-operative Bank Limited was declared and respondent no.2 District Co-operative Election Officer took steps for preparation of the

voters list to hold the election. A notification dated 10.03.2026 was published inviting Resolutions from member societies or individual category members to include their names in the provisional voters list. Respondent No.3 Bank supplied list of 80 individual members including petitioners. Accordingly, the Election Officer published provisional list of voters. Respondent no.1 raised objection against inclusion of name of petitioners as individual members of the Bank. Respondent no.2 allowed the objection by impugned order. Hence, this writ petition.

3. Mr. V.D. Salunke, learned Advocate for petitioners submits that, respondent no.2 acted arbitrarily. The petitioners were validly admitted as members of DCC Bank. A Resolution No. 20 was passed by the Bank in a meeting dated 29.02.2024 admitting petitioners as members. The decision by General Body is final and supreme under section 72 of the Maharashtra Co-operative Societies Act, 1960. The Election Officer had no jurisdiction to go beyond the Resolution and decide on the validity of the petitioners' membership. Respondent no.2 while dealing with the objections against ruling parties, observed that he had no power to go beyond Resolution, whereas, different view has been adopted while deciding the objections against petitioners.

4. Per contra, Mr. V. D. Hon, learned Senior Advocate

appearing for respondent No.1 and Mr. S. K. Kadam, learned Advocate for respondent No.2 supports impugned order contending that although Resolution admitting petitioners as members is shown to have been passed on 29.02.2024, there is nothing to show that the petitioners have deposited the membership fee and amount of shares. Their names were not appearing in the register of members maintained under section 38 of the Maharashtra Co-operative Societies Act, 1960. The register of members is *prima facie* evidence to show that the concerned person was admitted to membership. The register of members shows that petitioners have been admitted as members, after cut-off date. They were not admitted as valid members as on 21.03.2024.

5. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of record tendered into service, it can be observed that, names of petitioners were included in the provisional voters list. The objection was raised by respondent no.1, who is representative/delegate of member society. Section 27 of MCS Act, 1960 provides for voting powers of members. The Sub clause 3(A) provides that an individual member of the society shall not be eligible for voting in the affairs of that society for a period of two years from the date of their enrollment as a member of such society.

6. The notification issued by respondent no.2 for election of respondent no.3 Bank stipulates 21.03.2026 as qualifying date for inclusion in list of voters. Eventually, the individual members, who seek enrollment in voters list, must have been admitted to membership of society on or before 21.03.2024. The petitioners have relied on Resolution dated 29.02.2024 passed by Board of Directors, admitting them as members. *Prima facie*, the said Resolution cannot be disputed or there is no reason to enter into the validity of such Resolution. Issue which requires consideration is whether petitioners had acquired membership pursuant to the Resolution by qualifying date.

7. Respondent No.2 observed that petitioners had applied for membership during the period from 03.01.2024 to 28.01.2024 and Resolution of the Board of Directors accepting their applications for membership was passed on 29.02.2024. On 12.03.2024, petitioners were directed to deposit admission fees and share amount. It is further observed that, petitioners had not deposited amount of admission fees and share amount along with application forms in terms of Bye-law nos. 8(a) and 9(a). Further, as on 31.03.2024, register of membership in Forms 'I' and 'J' maintained by Bank depicts that petitioners have been admitted as members on 12.04.2024. They deposited amount of membership on 12.04.2024.

8. Section 38 of MCS Act, 1960 speaks about register of members. The register contains particulars of members, including date on which each persons was admitted as member. Sub clause (2) of Section 38 of MCS Act, 1960 prescribes that register shall be *prima facie* evidence of date on which any person was admitted to membership. Section 40 of MCS Act, 1960 prescribes about admissibility of copies of entries in evidence. In present case, extracts of register of membership in Forms 'I' and 'J' have been verified by respondent no.2 to reach to conclusion that petitioners acquired membership on 12.04.2024.

9. In that view of matter, this court finds that respondent no.2 has rightly concluded that petitioners were not valid members on qualifying date and refused their inclusion in final list of voters.

10. In result, Writ Petition being devoid of merit, stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE