

Supreme Court of India

Ramachandra Ganpat Shinde And ... vs State Of Maharashtra And Others on 17 August, 1993

Equivalent citations: AIR 1994 SC 1673, 1995 82 CompCas 276 SC, JT 1993 (4) SC 573, (1994) 1 MLJ 42 SC, 1993 (3) SCALE 471, (1993) 4 SCC 216, 1993 Supp 1 SCR 589

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Bench: K Ramaswamy, R Sahai

ORDER K. RAMASWAMY, J.

1. Leave granted.

2. Important twin questions of law, namely, whether the court while exercising its power under Article 226, could give direction contrary to the statutory mandate, if so whether such an order is liable to judicial review by an independent proceeding under Article 226 and if so under what circumstances and to what extent, arise for decision in this appeal. Shri Vithal Sakhar Sehakari Karkhana Ltd., Venu Nagar, Gurusale in Solapur Dist., the 4th respondent, for short "the society" is a specified Cooperative Society under the Maharashtra Cooperative Societies Act, 1960 (Act 21 of 1961) for short 'the Act'. Its term of office is 5 years. It was due to expire by December 3, 1991. The Dist. Collector, 2nd respondent is the competent authority under the Act to initiate election process in accordance with the Act and the Maharashtra Specified Cooperative Societies Elections to Committee Rules, 1971 for short, 'The Rules'. The Dist. Collector accordingly initiated the process pursuant to which the society submitted to the Collector on October 18, 1991 the List of Voters as on June 30, 1991. Thereon the Collector issued the following programme to finalise the list of voters. November 12, 1991 was fixed as the date to display on the notice board of the provisional voters list inviting claims or objections or suggestions for the inclusion or omission from the provisional list. November 20, 1991 was the last date to present such claims or objections to the Collector in terms of Rule 6(2) of the Rules. The Collector had to take a decision therein under Rule 6(4) on December 7, 1991 and the final list of the voters should be published under Rule 7 on December 17, 1991. In terms of the programme the provisional list was published on November 12, 1991 and after consideration of the objection or claims the final list was published on December 17, 1991.

3. The Government in exercise of its power under Section 77-IB of the Act postponed the conduct of election to the committees of all Cooperative Societies except those covered by orders of the courts till September 30, 1992. Two members by name Narayan Ganpat More and Mahadeo Bhanudas Mule, filed Writ Petition No. 2970 of 1992 in Bombay High Court on July 13, 1992 for a mandamus to the Dist. Collector and election officer to conduct election to the Committee of the Society forthwith that is to say after the expiry of 30.9.1992 in accordance with Section 73-G and Chapter XI-A of the Act and the Rules and to complete the same within the minimum period as provided under the Act. By consent of the Society, through its Chairman A.K. Patil, the 5th respondent herein, the division bench passed minutes order that since the Govt. postponed the election upto September 30, 1992, the process of election to the Society shall commence from October 1, 1992 and the Collector shall accordingly take suitable steps for holding the election. Following its heels More and Mule again filed another writ petition No. 4107 of 1992 on September 15, 1992 for a direction to hold election on the basis of final voters list published on December 17, 1991. Again A.K. Patil, chairman took notice put forth consent minutes and the division bench accepted it and directed by order dated

September 28, 1992 that respondent No. 4 (Society) shall submit provisional list of voters as on June 30, 1992 as per Rule 4 of the Rules on or before October 10, 1992. The Collector thereupon shall complete the finalisation of the said list under Rule 6 and then shall pronounce election programme under Rule 16 for holding the elections of the Committee of the Society and to complete the same within the prescribed time under the Rules. Thereafter on October 6, 1992 the election officer asked the Society to submit fresh provisional list as on June 30, 1992. On becoming aware of the above order, on October 16, 1992, the appellants filed Writ petition No. 4400 of 1992 to modify the order dated September 28, 1992 made in Writ Petition No. 4107 of 1992 and to direct the respondents 1 to 3 the State Govt. (Dist. Collector and election officers) to hold election to the Committee on the basis of the final voters list published on December 17, 1991 and to set aside the consequential orders. The division bench by the impugned judgment dated October 19, 1992 dismissed the writ petition in limine. Thus this appeal by special leave. Notice was served on all the respondents in this appeal. A.K. Patil, Chairman, respondent No. 5 was served on December 23, 1992. More, 6th respondent was served on December 18, 1992 and Mule, 7th respondent was served on December 16, 1992. They did not appear either in person or through counsel. The Society was represented by counsel.

Rule 4(1) of the Rules provides thus:

4(1) A provisional list of voters shall be prepared by every society for the year in which general election is due to be held. Persons who are members as on the 30th June of the year immediately preceding the year in which such election is due shall be included in the provisional list. If different constituencies are provided in the bye-laws, the names of voters shall be arranged constituency wise as laid down in the bye-laws:

Provided that, if any case, the preparation of the provisional list of voters falls due after the expiry of a period of six months from the 30th June, the Collector may, in consultation with the Registrar in respect of the societies, of the categories mentioned in Clauses (i), (v), (vi) and (vii) of Sub-section (1) of Section 73G, and in consultation with the District Deputy Registrar in respect of the societies the other categories mentioned in Sub-section 1 of Section 73G, by order, change the date of the 30th June and subsequent dates and fix revised dates for the purpose of these rules

4. Its reading adumbrates that the provisional list of voters of society shall be prepared by the society for "the year in which general election is due to be held". Persons who are members as on 30th June of the year immediately preceding the year in which such election is due, shall alone be included in the provisional list. Thereby, it is clear that the society shall prepare a provisional list of voters, comprising of all the members of that society for the year in which general election is due to be held. But the persons who are members of the society as on 30th June of the immediately preceding the year in which such election is due should alone be included in the provisional list and eligible to vote at the election. Under the proviso, if the preparation of the provisional list falls due after the expiry of the period of six months from 30th June, then the Collector is enjoined to consult the Registrar or the Dist. Deputy Registrar as the case may be based, on the class of society envisaged under Section 73G; he should pass an order changing the date of 30th June and prescribe a subsequent date; fix revised date for the purpose of preparing the provisional list and ensure the

procedure for declaration of the final list.

5. It is the case of the appellants that alter the final list was published by the Dist. Collector on December 17, 1991, A.K. Patil, the Chairman, got enrolled 2000 members and made them eligible to exercise franchise in his favour apprehending that he would be defeated in the general election, colluded with More and Mule, i.e. Director and a member of the society respectively, got filed collusive writ petitions, abused the process of the court, played fraud on the court and obtained collusive orders to make the provisional list of voters to be as on June 30, 1992 and to conduct elections on that basis. The Dist. Collector filed counter-affidavit in this Court admitting that Rule 4 and the circular issued by the Govt. in this behalf envisage that the final list of voters in force before the postponement of the election by the State Govt. shall be valid but since the High Court issued the direction to treat June 30, 1992 to be the date for reckoning the provisional list of voters to be valid, he had no option but to abide by the direction and to conduct the election in terms thereof. As stated earlier that though respondents 5 to 7 were served, they did not file any counter denying the allegations of the appellants made against them.

6. We have already noted that under Rule 4 provisional list of voters shall be prepared by every society "in the year in which general election is due to be held". It is not due under law as contended for the Society. What is the meaning of the above quoted phrase is to be gathered from the statutory operation of the law. The term of the Managing Committee was to expire on December 3, 1991. Under the Act the election to the managing committee of the society shall be held under Section 73G before the expiry of the term in accordance with the provision in chapter 11A of the Act, the Rules and the bye-laws of the society. The year in which the general election due is, therefore, the year 1991. If the elections were not conducted before its expiry, by operation of Sub-section 2B of Section 73G, the members of the existing committee should cease to hold office on its expiry of extended term as the case may be and should be deemed to have vacated their offices. By operation of Sub-section (3) of Section 73G, the general body of the members of the society should elect the members of the managing committee. Therefore, before the expiry of the term of the committee the general election to the Managing Committee is due. Black's Law Dictionary, sixth edition at. p.500, meaning of the words 'due date' has been stated thus: "In general, the particular day on or before which something must be done to comply with law of contractual obligation". When Section 73G, provisions in Chapter XIA and the bye-laws read with Rule 4 envisage that the election to the managing committee should be conducted before the expiry of the term, the Society has been enjoined under Rule 4(1) to prepare the provisional voters list of the members as on June 30th of the year "immediately preceding the year" in which such general election is due to be held and submit the same to the Dist. Collector. The Legislature, thereby intended that despite the existence of the members on the admission register of the society, only those members who were admitted and valid as members on or before 30th June of the year immediately preceding the year in which such general election is due alone are eligible to exercise the franchise and to be included in the provisional list. Thereafter on publication in the Notice Board under Rule 6(1) and considering the objections, suggestions or improvements if any made, the Collector is enjoined to finalise the list under Rule 7 and have it published as "final list of voters". The proviso would operate only in case the preparation of the provisional list of voters falls due after the expiry of the period of six months from the 30th June, then only, after consultation with the designated officer, the Collector, by an

order, may change the date of 30th June and fix a subsequent date as revised date to submit the provisional list of voters. In this case the proviso has no application for the reason that the provisional list had already been approved and published by the Collector as per the law on December 17, 1991. It was not challenged. Therefore, the year in which the general election to the society is due is the date as per the operation of law i.e. 1991 but not due after the expiry of the period as postponed by the State Govt. Obviously, for that reason the Govt. also had issued instructions on September 28, 1992 that in case the provisional list was approved and the final list was published prior to the postponement of the election, the election should be conducted in accordance with the final list published under Rule 7 of the Rules.

7. It would be obvious that A.K. Patil, Ex-Chairman of the defunct committee with a view to get over that impediment and to enable newly admitted 2000 members alter December 17, 1991, set up More, a co-director and Mule, alleged to be his friend, got filed the first writ petition and obtained a direction to conduct election following its heels got filed second writ petition with a format of legal process but immediately Patil intervened and appeared on the very date of admission; put forth consent order and obtained the order from the court to conduct election as per the provisional list existing as on June 30, 1992 and got issued the direction to the Collector with the mandate to conduct election in accordance with that list. It was specifically alleged that Patil colluded with More and Mule, abused the process of the court, played fraud on the court and obtained minutes order by consent without knowledge to any member of the society. In the absence of any denial of the allegations and in the light of the background of the case the necessary inference to be unerringly deduced would be that the consent order is a collusive and fraudulent order; made format of due process of law but obtained orders contrary to the statutory mandate of Rule 4(1) of the Rule. It could thus be seen that none of the members of the society had any opportunity to know or to oppose the consent order. Thereby the necessary conclusion would be that a collusive order obtained by abuse of the process of the court by playing fraud on the court, became foundation to conduct elections to the Managing Committee of the society circumventing the mandate of Rules 4(1) of the Rules.

8. In *Nagubai Animal and Ors. v. B. Shamma Rao and Ors.* (1956) SCR 451 at 463, this Court held that collusion in judicial proceedings is a secret arrangement between two person that the one should institute a suit against the other in order to obtain the decision of a judicial tribunal for some sinister purpose. In such a proceedings, the claim put forward is fictitious, the contest over it is unreal, and the decree passed therein is a mere mask having the similitude of a judicial determination and worn by the parties with the object of confounding third parties. This was reiterated in *Roop Chand Gupta v. Raghuvanshi Pvt. Ltd. and Anr.* (1964) 7 SCR 761 at 763, in which this Court held that the collusion is an improper act done by an improper refraining from doing an act, for a dishonest purpose. In these two cases this Court set aside the collusive decree obtained by the parties. Collusion, thus, is a foundation to put forward a format of judicial process and a pretext of contest which in effect is unreal and a force and the decree or order obtained on its basis is a mere mask having similitude of judicial determination with the object of confounding third parties. The offending order is vitiated by collusion and formed foundation for election to the committee of the society.

9. The question emerges whether the said order is liable to be interfered with and if so in what proceeding and to what extent? The order in the second writ petition cannot be reviewed because the appellants are not parties to the proceedings. Undoubtedly, the order passed by the High Court under Article 226 is by the exercise of plenary constituent power and jurisdiction. It is neither a void nor voidable order. As seen no fault could be found in the format of legal process in the pleadings and the reliefs sought for. But when it came up for admission, by consent, orders of minutes were drawn up which have become foundation for avoidance :of mandate of Rule 4(1) of the Rules. It is not a case of irregularity in the exercise of the jurisdiction so as to set it right by a review. Since the petitioners therein, namely, More and Mule being henchmen of Patil cannot be expected to invoke the review jurisdiction of the court. Third party has no right to file an application for review. Obviously in this backdrop the order being vitiated by collusion at the behest of Patil, More and Mule, the appellants, instead of filing an appeal under Article 136 with leave of the court, appears to have sought the remedy by way of filing a fresh writ petition under Article 226 and sought modification of the order so that the order of the court in the second writ petition would be in conformity with Rule 4(1) of the Rules.

10. Obviously finding the piquant situation in which Patil, More and Mule have been placed themselves, Sri Ashok Desai the learned Senior counsel appearing for Society, sought to salvage their problem placing reliance on the ratio of this Court in Naresh Shridhar Mirajkar and Ors. v. State of Maharashtra and Anr. . Therein the facts were that the High Court of Bombay, while trying a suit for defamation against the editor of a weekly newspaper, exercised its inherent power under Section 151 C.P.C., conducted the trial of the suit in camera and prohibited publication of the evidence and the proceeding so as to prevent business of the editor of the newspaper being affected. A writ petition was filed under Article 32 in this Court challenging the validity of the order of the High Court contending inter alia that the High Court had no jurisdiction to prohibit publication of the news; it affected their rights under Article 19(1)(a) and it was resisted on the ground that the writ petition under Article 32 was not maintainable to review judicial order of the court. This Court by seven Judges per majority held that the petitioners had no fundamental right under Article 19(1)(a). The Court had inherent power and jurisdiction under Section 151 CPC to conduct in camera trial and to prohibit publication of its proceeding of evidence and that writ petition under Article 32 is not maintainable to quash the judicial order. It is seen that the court, in order to protect the interest of one of the parties to the suit, exercised inherent power and jurisdiction under Section 151 CPC, passed a judicial order prohibiting publication of the proceeding in the suit or the evidence of the witness. It being a judicial order no third party has a right to intervene and challenge the same in the proceedings under Article 32 of the Constitution. The ratio therein has no application to the facts of this case. Undoubtedly, the order passed by the High Court under Article 226 is a judicial order exercising its constituent power but when its process is abused and an order of minutes obtained by consent hedged with collusion and fraud on the Court and obviously, though not pleaded, on general body of the members of the society, when the facts were brought to the notice of the High Court, it is the High Court alone or on appeal this Court which is to correct such and order.

11. Mr. Justice Arthur T. Vanderbilt in his "The Change of Law Reform 1955" at pages 4 and 5, stated that:

...it is in the Courts and not in the legislature that our citizens primarily feel the keen, the cutting edge of the law. If they have respect for the work of their courts, their respect for law will survive the short comings of every other branch of the Government; but if they lost their respect for the work of the Courts, their respect for the law and order will vanish with it to the great detriment of society.

(vide the Judicial Process by H.J. Abraham, p.3)

12. Respect for law is one of the cardinal principles for an effective operation of the constitution, law and the popular Government. The faith of the people is the source and succour to invigorate justice intertwined with the efficacy of law. The principle of justice is ingrained in our conscience and though ours is a nascent democracy which has now taken deep roots in our ethos of adjudication - be it judicial, quasi-judicial or administrative as hallmark, the faith of the people in the efficacy of judicial process would be disillusioned, if the parties are permitted to abuse its process and allowed to go scot free. It is but the primary duty and highest responsibility of the court to correct such orders at the earliest and restore the confidence of the litigant public, in the purity of fountain of justice; remove stains on the efficacy of judicial adjudication and respect for rule of law, lest people would lose faith in the courts and take recourse to extra-constitutional remedies which is a death-knell to the rule of law.

13. In *M. V. Venkatarumana Bhat v. The Returning Officer C.A. No. 3607 of 1993*, this Court by judgment dated July 30, 1993, set aside the election. The facts were that one Jaiprakash Rai filed a writ petition in the High Court of Karnataka one day prior to the date of election of the Pardhan of the Samithi, obtained ad interim order and prevented two members to participate and exercise their franchise in the election of the Pradhan. His candidate was elected with a margin of one vote. The writ petition was, ultimately, dismissed. The writ petition under appeal was filed to declare the election as illegal, void, etc. The High Court dismissed it. On appeal, this Court taking notice of the background of these facts and circumstances held that ad-interim order was obtained by abuse of the process of the court to help the successful candidate. Even if the remedy by election petition was available, the tribunal had no jurisdiction to sit over the correctness of the order passed by the High Court. Therefore, the High Court alone had to correct it by exercising its power under Article 226 to prevent such abuse of judicial process and should exercise its power of high responsibility to undo injustice done to the adversary undoing the effect of the order obtained by abusing the process of the court. The ratio would apply with equal force to the facts of this case. Therefore, the High Court should have exercised its power under Article 226 and should have modified the order as prayed for.

14. Since there is no stay of election the 5th respondent was alleged to have prevailed upon respondent No. 3 to proceed with the conduct of the election. Accordingly election process was initiated and election was to take place on April 27, 1993. This Court by order dated April 20, 1993 directed that the election may go on and every process may be completed but the result may not be declared till further orders and directed to post the special leave petition for final disposal on May 3, 1993 on which date this Court further clarified that the aforesaid order "does not come in the way of completing the process of counting being undertaken provided the results are not. announced". S.L.P. was directed to be listed on July 30, 1993. Thus we have heard the S.L.P.

15. Sri Ashok Desai contended that Section 144T provides remedy of election petition. The specified officer is empowered to decide the election dispute expeditiously and his decision shall be final and conclusive. The writ petition, therefore, is not maintainable. It is further contended that every grower of sugarcane within the area of the operation of the society is entitled to become a member of the society. The State Govt. postponed the election due to drought etc. from time to time upto September 30, 1992. In the interregnum the growers that became members of the society become entitled to participate in the democratic process of exercising their franchise to elect the members to manage the affairs to the committee. The Court, therefore, with a view to enable them to participate in the election process and to elect members of their choice permitted to incorporate their names in the provisional voters list as on June 30, 1992, since elections were not held till September 30, 1992. The words "general elections due" should be construed to be due according to law as on the date when the elections are to be held. Since the results are now known in the counting, the 5th respondent had secured more than 4 and 5 thousand votes while new members enrolled were only 2 thousand. This case does not warrant interference under Article 136. Shri Bhasme, the learned Senior counsel resisted the contentions. We have given our anxious consideration to the contentions of either side. In *N.P. Ponnuswami v. Returning Officer and Ors.*

(1952) SCR 218, the legality and validity of rejection of the nomination of the intending candidate to the Parliamentary election was challenged by way of a writ petition under Article 226. The High Court held that the Writ Petition was not maintainable. On appeal, by leave under Article 132, this Court held that the wider meaning of the word election connotes the entire process culminating in a candidate being elected. The election should be concluded as early as possible according to time schedule and all controversial matters and all disputes arising out of elections should be postponed till after the elections are over, so that the election proceedings may not be unduly retarded or protected. No significance should be attached to anything which does not affect the 'election', and if any irregularities are committed while, it is in progress and they belong to the category or class which, under the law by which elections are governed, would have the effect of vitiating the election and enable the person affected to impugn in question, they should be brought up before a special tribunal means of an election petition and not being made the subject of a dispute before any court while the election is in progress, (emphasis supplied). Accordingly, this Court upheld the view of the Madras High Court. In *S.T. Muthusami v. K. Natarajan and Ors.*, in Tamilnadu when elections to the Panchayat Union were being held, there was a dispute between two candidates as to who is the official candidate on behalf of the Indian National Congress (1) and entitled to the allotment of the symbol 'hand'. Both the candidates, appellant and the respondent claimed as official candidate but the Returning Officer on consent allotted different symbols as it was not cleared before acceptance of nomination. Later on clarification was issued by the Tamilnadu Congress (I) that the appellant was allotted symbol of 'hand'. The Returning Officer issued errata accordingly. Calling in question the errata the respondent filed the writ petition which was dismissed by a Single Judge and on appeal the division bench allowed the writ petition and quash the Errata. When the matter was brought by special leave under Article 136, this Court held that T.N. Panchayats Act, 1958 and the Rules provided forum to decide election disputes though alternative forum does not have the effect of overriding the powers of the High Court under Article 226 (emphasis supplied) but it may be taken into consideration in determining whether it would be appropriate for the High Court to exercise its powers under Article 226 in a particular case. Taking an overall view of the facts, this

Court held that the exercise of the jurisdiction under Article 226 cannot be supported and the validity of the election should be decided in the alternative forum provided under that Act. Accordingly the appeal was allowed. Therefore, this Court held that there is no constitutional bar in the exercise of the jurisdiction in respect of election to local bodies. It is equally sound exercise of discretion to bear in mind the policy of the legislature to have the dispute decided speedily through the machinery of election petition and decline to exercise its writ jurisdiction in election dispute. Once the election process was set in motion according to law any illegality or irregularity committed while the election process is in progress or the conduct of the election is vitiated by any illegality or irregularity in its process, the proper remedy is to lay the action before the tribunal constituted under that Act by means of an election petition and have the dispute adjudicated without the election process being interdicted or retarded mid way. The High Court or this Court while exercising the constituent plenary power under Article 226 or 32 or under 136, as the case may be, would decline to interfere with the election process and relegate the parties to take recourse to the alternative remedy of the election petition provided under the statute. When the order of the court issued under Article 226 is the foundation for a preparation for electoral roll contrary to or de hors the Act or Rules and bye-laws and the election process is founded thereon, it is not during the election process. If the order is vitiated by an error of law, the tribunal has no power or jurisdiction to go into its legality which is destructive of judicial discipline. Moreover, that cannot be impugned in an election petition nor the tribunal has the power or jurisdiction to determine the correctness or otherwise of the orders passed by the High Court or this Court. The only appropriate forum would, therefore, be the High Court itself or on appeal this Court, to correct it, if need be and no other forum. The appellants had approached the High Court, apprised it of the facts and sought modification of the order so as it be in conformity with the Rule 4(1) of the Rules. The High Court should have corrected the order but it failed to exercise that power.

16. It is next contended that this Court exercising the power under Article 136 would be loath to upset the order of the High Court placing reliance on *Rashpal Malhotra v. Mrs. Satya Rajput and Anr.* . Therein the order of ejectment was passed by the court below against the tenant who was co-nominee, not a party but known to the parties. The appellant to be ejected, was the nominee of the company. In that background, this Court held that though the order was not legal but being for bona-fide self-occupation, this Court declined to exercise the power under Article 136 and dismissed the appeal. The ratio therein has no application to the facts of this case. For an order obtained by abuse of the process of the court or by playing fraud or collusion, this Court should not countenance such an argument and should not allow such an order to remain operative for a moment. We are not equally impressed with the argument that the respondent now became aware that Mr. Patil secured more than 4 to 5 thousand votes though the invalid votes are only of 2 thousand, being of the members admitted after December 17, 1991, and that should be a factor for our declining to exercise the power under Article 136 to set aside the order of the High Court or the elections conducted pursuant to the permission granted by this Court. In our view, acceding to it would amount to putting a premium on fraud, collusion or abuse of the process of the court creating disbelief and disillusionment of the efficacy of judicial process and rule of law and a feeling would be generated that persons capable to manoeuvre and abuse the judicial process would reap the benefit thereof and get away with the orders. Every endeavour would be made to inculcate respect for fair judicial process and faith of the people in the efficacy of law.



17. Though normally when a respondent is not contesting its case, costs would not be awarded. But an exception would be carved out and in a suitable case cost should be awarded on persons that set the law in motion; had benefit thereof and remained obviously ex-parte. This Court under Article 142 has plenary power "to pass such order as is necessary for doing complete justice in any cause or matter coming before it". The facts of this case already established that the respondents Nos. 5 to 7, in particular A.K. Patil, must be lurking and loitering in the corridors of this Court for the outcome, though they obviously remained ex-parte. It is a fit case for exercising our power under Article 142 to impose cost on the non-contesting respondents, A.K. Patil, More and Mule, jointly or severally. Costs are quantified at Rs. 20,000 and the appellants are entitled to recover the costs of this appeal against any one of them or all of them.

18. It is hereby declared that election process conducted by the third respondent, Dist. Deputy Registrar, Cooperative Society, Solapur to the Society is illegal. The final list of voters published by the Dist. Collector, Solapur, as on June 30, 1992 is declared illegal. The final voters list declared on December 17, 1991 relating to the society is the valid list. Accordingly the order of the High Court in Writ Petition No. 4107 of 1992 dated September 15, 1992 is modified. The direction to the Dist. Collector and the 3rd Respondent, Dist. Deputy Registrar, Coop. Society, Solapur to proceed as per Rules 4 to 7 and 16 to conduct election to the committee of the society in accordance with the Rules is upheld with the above modification. The election held to the Managing Committee of the society on April 27, 1993 is declared illegal and invalid. Respondent Nos. 2 & 3 are directed to conduct the election as per Rules consistent with the above order. The appeal is allowed accordingly with costs as fixed above.