



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 3836 OF 2022**

Aurangabad District Central Co-Operative Bank
Ltd., Head Office at Adalat Road,
Aurangabad, Tq. & Dist. Aurangabad,
Through its Managing Director,
Shri. Rajendra Rambhau Shinde,
Age: 56 years, Occu.: Service,
R/o. Aurangabad, Tq. & Dist. Aurangabad.

..Petitioner

Versus

1. The State of Maharashtra
through its Secretary,
Co-operation and Textile Department,
Mantralaya, Mumbai.
2. The Commissioner for Co-operation
and Registrar Co-operative Societies,
Maharashtra State, Pune.
3. The Divisional Joint Registrar,
Co-operative Societies, Aurangabad.
4. The Chairman,
District Supervisory Committee and
District Deputy Registrar Co-operative
Societies, Aurangabad.
5. Aurangabad Zilla Dekhreh Sahakari Sangh,
Ltd. Laxmi Apartment, Nirala Bazar, Aurangabad,
Through its Secretary. ..Respondents.

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Mr. K. J. Suryawanshi, Advocate for the Petitioner.
Mr. S. K. Shirse, AGP for Respondents.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.
DATED : 22nd FEBRUARY 2024.**

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner-Bank approaches this Court under Article 226 of the Constitution of India thereby impugning the directions/orders dated 06.12.2010 and 26.03.2021 issued under Section 79(1) of the Maharashtra Co-operative Societies Act, 1960 (for short 'M.C.S. Act, 1960') by respondent nos.2 and 3 i.e. Commissioner for Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune and Divisional Joint Registrar, Co-operative Societies, Aurangabad.

3. The petitioner is co-operative bank operating with aims and objects to disburse loans to the needy members. The Primary Agricultural Co-operative Credit Societies/V.K.S.S. are the member societies of the petitioner-Bank. The group secretaries appointed by respondent no.5-Zilla Dekhreh Sahakari Sangh Limited are working on the said Societies. As such respondent no.5 is employer of the group secretaries. The salary of the group secretaries were disbursed from the funds created in terms of Section 69-A of the M.C.S. Act, 1960. The petitioner-Bank was under obligation to deposit the joint fund contribution at the rate of Rs.0.15% in terms of Section 69-A read with Rule 53-A of the M.C.S. Act, 1960. The petitioner has accordingly credited the amount in the joint fund account upto 31.12.2008. Subsequently, Section 69-A of the M.C.S. Act, 1960 came to be deleted vide Notification dated 01.12.2008. As such, the obligation casted upon Bank to contribute the amount towards salary of the group secretaries is no more in existence.

4. The petitioner contends that the responsibility to pay the salary of group secretaries is upon respondent no.5 w.e.f. 1.01.2009. Further by insertion of Section 69-B District level and State level Committee is constituted for redressal of the grievances of the group secretaries, the Forum is created under Government Resolution dated 01.12.2008. However, respondent no.2-Commissioner for Co-operation and Registrar, Co-operative Societies issued directions in exercise of

powers under Section 79(1) of the M.C.S. Act, 1960 directing the petitioner to make payment of salary of group secretaries. Clause No.4 of the aforesaid order mandates that Primary Agricultural Co-operative Credit Societies/V.K.S.S. shall deposit the contribution at the rate of Rs.1.25% in the account of respondent no.5 i.e. Zilla Dekhreh Sahakari Sangh with the petitioner-Bank before 10th of every month towards payment of salary of group secretaries. It is further directed that on failure of the Primary Agricultural Co-operative Credit Societies/V.K.S.S. to make deposit of contribution, the District Central Co-operative Bank, on recommendation of District Level Committee, shall deposit the amount towards salary in the account of respondent no.5-Zilla Dekhreh Sahakari Sangh by debiting the same to account of concerned Society.

5. Relying upon the aforesaid directions, Writ Petition No.11124/2010 was filed by the Aurangabad District Co-operative Societies Group Secretaries' Association at Aurangabad, wherein petitioner is directed to comply direction dated 06.12.2010 issued by respondent no.2. According to the petitioner, because of failure on the part of the group secretaries to perform their obligation to deposit the amount of contribution at the rate of Rs.1.25% in the account of respondent no.5, there is shortage of funds and the petitioner is facing difficulty to comply the directions under order dated 06.12.2010. Therefore, it is urge that the impugned directions and further circular dated 26.03.2021 issued by respondent no.3 directing the petitioner-Bank to comply the obligation under order dated 06.12.2010 is liable to be quashed and set aside.

6. Mr. Suryawanshi, learned Advocate appearing for the petitioner submits that the obligation of the petitioner to make contribution no more survives in view of deletion of Section 69-A of the M.C.S. Act, 1960 from the statute book. The group secretaries are

appointed by respondent no.5-Zilla Dekhreh Sahakari Sangh and employment fund was created for payment of salary of such cadre. The District Level and State Level Committees are established for redressal of grievances of the group secretaries in terms of newly inserted Section 69-B of the M.C.S. Act, 1960. He would, therefore, submit that no directions can be issued against D.C.C. Bank in terms of Section 79(1) of the M.C.S. Act, 1960 to arrange for amount for disbursement of the salary. He would point out that there are heavy dues with the Primary Societies and no contribution or the funds are received from them. As such, after amendment of 2008 and deletion of Section 69-A of the M.C.S. Act, 1960, the impugned orders are not sustainable in law. In support of his contentions he relies upon the judgment of the Supreme Court of India in the matter of *Indian Oil Corporation Limited Vs. State of Uttar Pradesh and Others*¹ and judgment in case of *Maharashtra State Cp-operative Patsanstha Federation Ltd. Mumbai Vs. State of Maharashtra and Another*² to contend that the executive directions cannot override Rules framed under the Act. Hence, the impugned orders which are not supported by the statutory mandates or scheme cannot be sustained under law.

7. We have considered submissions advanced and perused the record. It is not in dispute that respondent no.2-Commissioner for Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune issued impugned order in exercise of powers under Section 79(1) of the M.C.S. Act, 1960. The directions contained in impugned order are based on recommendations of Vaidyanath Committee, that introduced three tier system of finance. For that purpose an agreement dated 13.11.2006 came to be executed between the State Government, NABARD and Central Government. While issuing impugned directions, the amendment in the Co-operative Societies Act, particularly in Section 69 have been taken into account and the system

¹ (2019) 16 SCC 482.

² (2019) 5 Mah LJ 325.

to secure the payment of salary of group secretaries of Primary Societies has been introduced. Apparently, this Court in case of ***Kolhapur District Cooperative Group Secretaries Association and Anr. Vs. State of Maharashtra and Anr., Writ Petition No.9525/2010*** dated ***14.12.2010*** issued directions to the Assistant Registrar/Deputy Registrar, Co-operative Societies, located in various districts to comply the directions under order dated 06.12.2010 and submit compliance report. Similar directions have been issued by this Court in Writ Petition No.11124/2010 against present petitioner directing them to comply the directions under impugned order dated 06.12.2010, passed by the Commissioner for Co-operation, Maharashtra State. It is not in dispute that in compliance of the aforesaid order, the petitioner transferred funds in the account of respondent no.5 to ensure the payment of salary of group secretaries.

8. Pertinently, the petitioner seeks to challenge the order dated 06.12.2010 which is in operation till this date and execution of which is mandated under orders of this Court passed in Writ Petition No.11124/2010. It can be noted here that the present Writ Petition is filed in the year 2022 and challenge is sought to be raised to impugned order passed in the year 2010, which has been accepted and implemented without any protest for more than 11 years prior to filing of this Writ Petition. Although the provisions of Limitation Act, 1963 does not apply to Writ jurisdiction, the doctrine of limitation being based on public policy, the principles enshrined therein are applicable and writ petitions can be disposed of on the ground of delay and laches. The Court may refuse to entertain such writ petition, if petitioner approaches the Court after inordinate delay. Now, it is well settled that even in cases where limitation is not prescribed, normally challenge to the order cannot be entertained after three years. Reference can be

given to the observations of the Supreme Court of India in case of ***State of Orissa and Another Vs. Mamata Mohanty***³.

9. The learned AGP has rightly pointed out that the present writ petition has been filed only with a view to frustrate prayer in the Writ Petition No.6908/2021 filed by Union of Group Secretaries thereby bringing to the notice of this Court non-observance of order dated 06.12.2010 and circular dated 26.03.2021 and consequential blockage of payment of their salary.

10. Although it is sought to be contended on behalf of the petitioner that in view of deletion of Section 69-A of the M.C.S. Act, 1960 it has no more obligation to arrange for funds to pay the salary of group secretaries, we cannot accept such submissions since amendment as regards to Section 69 is in the statute book since 2008, the impugned order is passed in the year 2010 and its implementation is superimposed by order passed by this Court in atleast two writ petitions in the year 2010. Therefore, without going into the merits of the contentions, considering the inordinate delay of more than 11 years in raising the challenge and considering object of directions issued by respondent no.2 under impugned order, we are not inclined to entertain the Writ Petition. Resultantly, Writ Petition stands dismissed.

11. Rule is discharged.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE