



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7345 OF 2022

1. Sanjay Dattatraya Kulkarni (Talegaonkar),
Age : 52 years, Occ : Agri and Business,
R/o Talegaon, Tq. Umri, Dist. Nanded.
2. Lingram Digambar Kawale
Age : 62 years, Occ : Agriculture,
R/o Sindhi, Tq. Umri, Dist. Nanded.
3. Bapurao Tulshiram Kadam (Patil)
Age : 52 years, Occ : Agriculture,
R/o Karkala, Tq. Umri, Dist. Nanded.
4. Marotirao Venkatrao Kawle
Age : 52 years, Occ : Agriculture,
R/o Sindhi, Tq. Umri, Dist. Nanded.

..PETITIONERS

VERSUS

1. Shrinivas Bajirao @ Balajirao Deshmukh-Gorthekar
Age : 65 years, Occ : Agri.,
R/o Gortha, Ta. Umri, Dist. Nanded
Chairman Umri Sahakari Ginning and
Pressing Society, Umri, Tq. Umri,
Dist. Nanded.
2. Ganesh Sadhu Sawant
Age : 55 years, Occ : Business,
R/o Gortha, Tq. Umri, Dist. Nanded
Director, Umri Sahakari Ginning and
Pressing Society, Umri, Tq. Umri,
Dist. Nanded
3. Umri Sahakari Ginning and
Pressing Society, Umri, Tq. Umri,
Dist. Nanded
Through its Manager

4. District Deputy Registrar,
Co-operative Societies, Nanded,
Dist. Nanded.
5. The Assistant Registrar,
Co-operative Society, Umri,
Dist. Nanded.
6. A.G. Ghogare
Office Superintendent,
District Registrar Office,
Co-operative Societies Nanded.
(Deleted as per Court's order
dated 14.07.2022)
7. The Divisional Joint Registrar,
Co-operative Societies, Latur,
Tq. and Dist. Latur.
8. The State of Maharashtra
Through Secretary,
Co-operative Department,
Mantralaya, Mumbai.
9. The State of Maharashtra
Through Hon'ble Minister,
Co-operative Department,
Mantralaya, Mumbai
(Deleted as per Court's order
dated 14.07.2022)
10. Shri K.S. Barkul
Assistant Registrar (Administration,
Co-operative Societies, Nanded,
Tq. Nanded, Dist. Nanded
Administrator Umri Sahakari
Ginning and Pressing Society,
Umri, Tq. Umri, Dist. Nanded
(Added as per Court's order
dated 03.07.2023)

..RESPONDENTS

Mr. S.V. Natu h/f Mr.A.V. Indrale Patil, Advocate for the petitioners
 Mr.S.B. Gahtol Patil, Advocate for respondent nos.1 to 3 and 10.
 Dr. Kalpalata Patil Bharaswadkar, Addl. G.P. for the respondent/State.

CORAM : ROHIT W. JOSHI, J.
 RESERVED ON : 11th AUGUST, 2025
 PRONOUNCED ON: 25th AUGUST, 2025

JUDGMENT :

The dispute in the present petition pertains to Umri Sahakari Ginning and Pressing Society, Umri (hereinafter referred to as “the said society”), which is registered under the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as “the M.C.S. Act”). The petitioners are members of the said society. Respondent Nos.1 and 2 are Chairman and Director respectively of the said society.

2. The petitioner nos.1 to 3 and other members had lodged a complaint dated 02.03.2020 with the Hon’ble Minister, Ministry of Co-operation, Government of Maharashtra, levelling certain allegations with respect to working of the said society, particularly with respect to attempt of members of the Managing Committee to sell the

land of the society by under-valuing the same. Pursuant to the said complaint, the District Deputy Registrar (D.D.R.) had called upon the Assistant Registrar to furnish a report with respect to issues raised in the said complaint. The Assistant Registrar submitted report dated 18.11.2020 stating that the society, which was formed for the purpose of ginning and pressing of cotton was non-functional and all the work of ginning and pressing was stopped from the year 2009. It is stated that society did not purchase cotton and also did not carry out any operation of ginning and pressing for past several years. It is stated that the entire income of the society was only from rent received from the tenants.

3. In this backdrop and in the light of the observations in the report that society had become dysfunctional, D.D.R. passed order of interim liquidation under Section 102(1)(c)(ii) and (iv) of the M.C.S. Act on 08.02.2021. The said order was assailed by Respondent No.3 – Society and Respondent No.2 in Writ Petition No.3683/2021. After filing of the petition, the D.D.R. had withdrawn the order dated 08.02.2021. The petition was disposed of in view of the aforesaid with liberty to the respondents to initiate

fresh proceedings on the same grounds and take fresh decision in the matter after granting opportunity of hearing to the petitioners in the said petition (respondent nos.2 and 3 in the present petition). Thereafter, the D.D.R. passed interim order of liquidation under the same provision i.e. Section 102(1)(c) (ii) and (iv) of the M.C.S. Act on 25.06.2021. It is observed in the order that the society had stopped the work of ginning and pressing for past around 18 years and that it was apparent from the conduct of the office bearers of the society that they were not interested in making the unit of the society functional. It is also observed that the audit from the years 2009 to 2016 was not conducted regularly and was done at once at the end of the year 2016. This order of interim liquidation was followed by subsequent order of final liquidation dated 29.07.2021.

4. Respondent Nos.1 to 3 preferred an Appeal against the order of liquidation under Section 104 of the M.C.S. Act. The said Appeal was registered as Appeal Application No.88/2021. The said Appeal came to be dismissed vide order dated 17.11.2021 passed by the Divisional Joint Registrar of Cooperative Societies. Respondent

Nos.1 to 3 preferred a Revision against the said orders, being Revision Application No.581/2021 before the Hon'ble Minister of Co-operation and Marketing, Government of Maharashtra. The Hon'ble Minister has allowed the said Revision Application vide order dated 23.06.2022. The order of liquidation dated 29.07.2021 came to be quashed by the said order passed by the Revisional Authority.

5. The petitioners, who are members of the society, who had lodged the complaint, pursuant to which inquiry was ordered and the order of liquidation came to be passed have challenged the said orders by filing present petition.

6. Mr. S.V. Natu, learned Advocate for the petitioners contends that the Hon'ble Minister has erred in law in allowing the Revision Application. It is contended that the Hon'ble Minister has transgressed the limits of revisional jurisdiction while passing the impugned order. He contends that the impugned order, apart from being unsustainable on merits, is also liable to be quashed only on the ground that the Hon'ble Minister had heard the matter on 14.12.2021 and

passed the impugned order on 23.06.2022, after a period of around six months and nine days. He states that the inordinate delay in deciding the matter itself is a ground for setting aside the impugned order. He also states that the impugned order is passed only in the wake of chaotic situation that had arisen in June, 2022 relating to the formation of Government. He states that this was the period when a political party which was the part of Government was about to split and there was a complete confusion and uncertainty with respect to existence of the Government. He argues that it is apparent from the order passed by the Hon'ble Minister that the society was not functioning for inordinately long period, which is ground for passing order of liquidation, which was rightly invoked by the competent authority namely the D.D.R. He also contends that the grounds for liquidation under Section 102(1)(c)(iv) were also established, in as much as, the society had let out its properties for a pittance and was also not maintaining accounts and carrying out audit regularly.

7. Per-contra, the learned Additional Government Pleader and the learned Advocate for Respondent Nos.1 to 3

support the impugned order. It is contended that the society was unable to continue with the operations of ginning and pressing since the plant and machinery had become outdated. The learned Advocates contend that it was necessary to generate funds for installation of new plant and machinery for which it had become necessary to sell a part of lands owned by the society. The learned Advocates contend that the society owns large tracks of land and it was necessary to sell some portion of these lands in order to generate funds. It is contended that the Hon'ble Minister was completely justified in granting one chance to the society to recommence its operations. They contend that the decision of the Hon'ble Minister is in general interest of the members and farming community in the vicinity of the society. The learned Advocate for respondent nos.1 to 3 has placed reliance on several decisions of the Hon'ble Supreme Court as also this Court to contend that the scope of interference in a petition under Article 227 of the Constitution of India is very limited and that this Court while exercising jurisdiction under Article 227 of the Constitution of India should not convert itself into Court of Appeal to re-appreciate the facts or to substitute its own decision with the decision rendered by the authorities.

Likewise, he has also placed reliance on some decisions of this Court interpreting Section 72 of the M.C.S. Act, wherein it is held that final authority of every society is vested with the general body of the members and that decisions taken by the general body in the general body meeting are binding on the society and its members. He has also placed reliance on certain authorities to contend that the petitioners do not have locus to challenge the revisional order passed by the Hon'ble Minister. Placing reliance on the judgment of this Court in the matter of *Hiradgaon Vividh Karyakari Seva Sahakari Society Ltd. Vs. The State of Maharashtra and others, 2014(2) Mh.L.J. 676*, he contends that the State has wide powers while exercising revisional jurisdiction under Section 154 of the M.C.S. Act and the power of this Court while testing the said order under Article 227 of the Constitution of India is limited. He has placed reliance on paragraph nos.14 and 15 particularly, which read as under:-

"14. Section 154 of the M.C.S. Act confers revisional powers to the State. Scope of the revisional powers is specified under Section 154 of the M.C.S. Act. A Minister enjoys revisional powers under Section 154 of the M.C.S. Act, not only on application of any party, but suo moto may call, examine and may consider the

legality and decision and order of the Sub-ordinate Officer and also verify the regularity of those proceedings and if at all it appears to the Honourable Minister, then he may modify, annul or reverse such order. Thus, the State has wide powers and the State can modify the order passed by the Sub-ordinate Officer and so also can reverse the said order. However, it is necessary that the revisional authority should be satisfied that the order passed below is not proper and is illegal. This Court has limited powers under Article 227 of the Constitution while issuing a writ of certiorari. Though these are plenary powers, the High Court may refuse to invoke the writ jurisdiction, even if a possible view is taken, out of two available views by the revisional authority. If the order passed by the revisional authority is erroneous, ex facie, then interference under the writ jurisdiction is justifiable. On the background of this legal position, the proceedings before the Court are examined.

15. While invoking writ jurisdiction no need to go into the merits of the matter, i.e. whether a particular society was having how many members, what was its financial capacity etc. The order can be tested only on the point of illegality which should be self-evident."

8. The learned Advocate also contends that the order passed by the Appellate Authority is unsustainable since

it is a non-speaking order.

9. Heard respective Advocates as aforesaid, perused the orders passed by the authorities and other documents placed on record.

10. It appears that the fact that the society is not carrying out the operations of ginning and pressing, which is the chief objective of the society, is not in dispute. Likewise, it is also matter of record that audit of accounts of society was not carried out regularly in the past.

11. The learned Advocate for respondent nos.1 to 3 is justified in contending that this Court, in exercise of its supervisory jurisdiction, under Article 227 of the Constitution of India cannot sit in Appeal over the impugned order passed by the Hon'ble Minister and that this Court should not act as an Appellate Court while dealing with the petition challenging the said order. Having said so, it also needs to be stated that it is well within the authority of this Court to step-in in cases where the authorities do not act within the scope of their

jurisdiction. In the event it is found that the authorities have exceeded their jurisdiction or have not exercised jurisdiction in accordance with law, it will be open for this Court to interfere with the matter in exercise of its powers under Article 227 of the Constitution of India. The judgment in the matter of *Celina Coelho Pereira and others Vs. Ulhas Mahabaleshwar Kholkar and others*, 2010(1) SCC 217, relied upon by the petitioners clarifies this legal position. In the light of this settled legal position that the order passed by the Hon'ble Minister needs to be tested.

12. The impugned order is passed in exercise of powers vested under Section 154 of the M.C.S. Act. Power under Section 154 can be exercised either on an application or suo-moto. The scope of jurisdiction under Section 154 is to test the legality of an order passed by an Officer under the M.C.S. Act or propriety of any decision or order passed under the Act. Likewise, it is also open for the Hon'ble Minister to examine the regularity of proceedings in which orders are passed by the Officers functioning under the Act. Thus, the jurisdiction under Section 154 is restricted to examining the legality or propriety of orders passed by the authorities under

the Act and/or to examine regularity of proceedings in which such orders are passed. In exercise of powers of revision under Section 154, the Hon'ble Minister cannot re-appreciate the evidence or substitute his discretion for the discretion exercised by the concerned officers.

13. In this context, when the impugned order passed by the Hon'ble Minister is seen, it is found that, the Hon'ble Minister has not recorded any finding that the order of liquidation passed by the D.D.R. is illegal or improper. The Hon'ble Minister has also not found any fault with the procedure followed by the said authority while passing the order of liquidation. The Hon'ble Minister has observed that it will be appropriate that one more opportunity is granted to the society to recommence its activities. While arriving at this conclusion, the Hon'ble Minister has observed that the society was trying to generate funds by selling some of its immovable properties. It is observed that litigation was also on going with respect to decision taken by the society to sell its properties, and therefore, the properties could not be sold to generate funds.

14. Perusal of the impugned order will thus demonstrate that the Hon'ble Minister has quashed the order of appointment of liquidator, although it is not found that the order suffers from any illegality or impropriety or that the proceeding in which the order is passed suffers from any irregularity. It is apparent that Hon'ble Minister has exceeded his jurisdiction while deciding the revision under Section 154 of the M.C.S. Act by substituting his discretion with that of D.D.R. In the considered opinion of this Court, the order passed by the Hon'ble Minister suffers from a jurisdictional error. In this regard, it will be appropriate to refer to the judgment in the matter of *Hiradgaon Vividh Karyakari Sahakari Seva Society Ltd., (supra)* relied upon by the learned counsel for respondent nos.1 to 3, wherein it is held that, although, the power under Section 154 is wide and includes power to modify and also reverse the orders impugned, this Court has categorically held that the revisional authority should first satisfy itself that the order impugned is not proper and is illegal. Revisional jurisdiction under Section 154 can be invoked only if the order is improper or illegal. In view of the above, in the considered opinion of this Court, the order dated 23.06.2022 cannot be sustained and is liable to be quashed.

15. The contention of learned Advocate for the petitioners that the impugned order is passed after an inordinate delay of over six months and that too in the light of political uncertainty creating existential crises of the Government is not being tested in view of the finding arrived at by this Court that the impugned order is passed by exceeding the scope of jurisdiction under Article 154 of the M.C.S. Act.

16. Mr.S.B. Ghatol Patil, learned Advocate for respondent nos.1 to 3 states that the order dismissing the appeal passed by the learned Divisional Joint Registrar is also unsustainable, in as much as, the appeal preferred by respondent nos.1 to 3 is dismissed by non-speaking order. Drawing attention of this Court to the said order, he contends that the appellate authority merely recorded rival contentions and has dismissed the Appeal without recording any reasons. He points out from the order that, although, the order runs into several pages, only reason recorded while dismissing the Appeal is as under:-

"प्रतिवादी क.4 ते 11 पैकी उमरी जिनिंग व प्रेसिंग सहकारी सोसायटी लि. उमरी या संस्थेचे संचालक व सभासद त्याच बरोबर इतर शेतकरी यांचे म्हणणे विचारात घेता आणि प्रतिवादी क.1 यांचे लेखी म्हणणेनुसार, तसेच सुनावणी दरम्यान सादर केलेल्या उपलब्ध कागदपत्रांचे अवलोकन केले असता उमरी जिनिंग व प्रेसिंग सहकारी सोसायटी म.उमरी ही संस्था मंजूर उपविधीतील उद्देशाप्रमाणे कामकाज करीत नसून सदर संस्थेचे कामकाज ब-याच वर्षांपासून बंद असल्याचे दिसून येते. करिता खालील प्रमाणे आदेश पारित करण्यात येत आहे."

True translation of the above portion made by the Chief Translator of PG Cell of this Court is as under :-

"Considering the statements of the directors and members of the Umri Ginning and Pressing Cooperative Society Limited, Umri, respondents Nos.4 to 11, as well as other farmers, as also the written submissions of the respondent No.1, and the available documents submitted during the hearing, it appears that the Umri Ginning and Pressing Cooperative Society Limited, Umri is not functioning as per the objectives of the approved bye-laws and the functioning of the said society has been closed for many years. The following order is hereby passed."

The learned advocate, therefore, contends that the appellate order is also unsustainable and is liable to be

quashed and set aside. His contention is that although, the Hon'ble Minister has not set aside the appellate order on this ground, the contents of the order are a matter of record and perusal of the order passed by the appellate authority gives rise to only one conclusion that the said order is non-speaking order, which is unsustainable and accordingly, it is liable to be quashed.

17. Mr. Natu, learned Advocate for the petitioners states that the scope of present petition is to decide correctness or otherwise of the order passed by the Hon'ble Minister. He contends that whether to interfere or not with the order passed by the appellate authority should be left to be decided by the Hon'ble Minister. His contention is that the order passed by the Hon'ble Minister deserves to be quashed and set aside and the matter should be remanded to the Hon'ble Minister to decide the revision afresh.

18. Having considered the rival submissions, it is apparent that the order passed by the appellate authority is clearly unsustainable since it is a non-speaking order. The

Appellate Authority has not dealt with contentions raised by respondent nos.1 to 3, who had preferred Appeal against the order of liquidation passed by the D.D.R. A non-speaking order is dead letter in the eyes of law. The Appellate Authority has virtually deprived respondent nos.1 to 3 of right to appeal which is valuable statutory right. Remedy of appeal would be rendered meaningless, if appellate authorities are allowed to decide appeals without recording any reasons and without dealing with rival contentions raised in appeal.

19. Normally on finding that the order passed by the revisional authority, which is impugned in the present petition, is unsustainable, the matter would have been remanded to the revisional authority to decide the revision afresh. However, in the facts of the present case, it is obvious that the order passed by the appellate authority is completely unsustainable. There cannot be any second opinion about the fact that the said order is non-speaking order, which cannot withstand the scrutiny of law. In the considered opinion of this Court, it will, therefore, be expedient to allow the petition in part by maintaining the order passed by the Hon'ble Minister to the extent it has quashed and set aside the order passed by the

appellate authority. The Appeal needs to be restored to file with directions to the appellate authority to decide the Appeal afresh by dealing with all the rival contentions and by passing the speaking and well reasoned order. In the result, the petition is partly allowed as under:-

ORDER

(i) The order dated 23.06.2022 passed by the Hon'ble Minister of Co-operation and Marketing, Government of Maharashtra in Revision REv-2021-Pra.Kra 589/15(s) Shri Shrinivas Bajirao Deshmukh and two others Vs. Divisional Joint Registrar, Co-operative Societies, Latur Division, Latur and others and the order dated 17.11.2021 passed by the Divisional Joint Registrar of Co-operative Societies, Latur, in Appeal No.88/2021 are quashed and set aside.

(ii) Appeal No.88/2021 decided by the Divisional Joint Registrar, Co-operative Societies, Latur is restored to file of the said authority with directions to decide the said Appeal by dealing with all the rival contentions and passing a reasoned order.

(iii) The parties shall appear before the Divisional Joint Registrar, Co-operative Societies, Latur on 08.09.2025. The

parties to note that separate notice for appearance will not be issued.

(iv) The Divisional Joint Registrar, Co-operative Societies, Latur is directed to decide the Appeal, as early as possible and in any case, before 31st December, 2025.

(v) Writ Petition stands disposed of.

(vi) The Civil Applications, if any, stand disposed of.

[ROHIT W. JOSHI, J.]