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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3412 OF 2015

AUSA TALUKA SHIKSHAK SAHAKARI PAT
SANSTHA LTD, AUSA,
Near ST Depot, Ausa,
Tq.Ausa, Dist.Latur.
Through it's Chairman,
Mahadev Ramling Khichade,
Age : 40 years, Occ : Service,
R/o Ausa, Tq.Ausa,
Dist.Latur.

...PETITIONER

-VERSUS-

SURESH HANMANTRAO SONWANE,
Age : 53 years, Occ : Service,
R/o Behind Vishram Bhavan,
Pawar Nagar, Ausa, Tq.Ausa,
Dist.Latur.

...RESPONDENT

...

Advocate for Petitioner : Shri Irpatgire A.N.
Advocate for Respondents : Shri Patil B.N.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 20th August, 2015

Oral Judgment:

1 Rule. Rule made returnable forthwith and heard finally by the
consent of the parties.

2 The Petitioner seeks to challenge the judgment and order dated 20.12.2014 delivered by the Maharashtra State Cooperative Appellate Court, Mumbai, Bench at Aurangabad (herein after referred to as “Appellate Court”) in Appeal No.10/2013.

3 The learned Advocates appearing for the Petitioner and the Respondent have argued at length and have canvassed a host of factors. It is jointly submitted that Appeal No.10/2013 has been decided and considering the directions issued by the Appellate Court, the recording of evidence before the Cooperative Court has also commenced. The matter was to be disposed of by the end of July, 2015. Extension has also been granted by the Appellate Court, is the statement made by the learned Advocates on instructions.

4 It is the contention of the Petitioner that the Cooperative Court is now deciding the dispute in the light of the Respondent having given up his claim for reinstatement with continuity and back-wages.

5 The Respondent makes a statement before this Court that the claim of the Respondent before the Cooperative Court is restricted only to the extent of seeking damages against the Petitioner.

6 Having considered the submissions of the learned Advocates and having gone through the impugned judgment and order of the Appellate Court, I am of the view that the Appellate Court would have been justified had it kept all the contentions of the litigating sides open so as to enable the Cooperative Court to decide the dispute afresh.

7 The learned Advocate for the Petitioner submits that the Cooperative Court is interpreting the directions of the Appellate Court as being restrictive to deciding the dispute only by permitting the Petitioner to examine the Auditor and Enquiry Officer and no other witness to be examined.

8 It is only to the extent of the above that an interference is called for in this petition.

9 As such, this Writ Petition is partly allowed and a clarification to the impugned judgment and order dated 20.12.2014 delivered by the Appellate Court, in the light of the statement made by the Respondent, is ordered as under:-

- (a) The Respondent is restricting the dispute only to the extent of claiming damages against the Petitioner.

- (b) The Cooperative Court shall decide Dispute No.CCL/417/2009 on it's own merit in the light of the statement made by the Respondent/ Disputant and permit both the litigating sides to lead additional oral and documentary evidence as they may deem fit and proper.
- (c) The said dispute shall be decided by the Cooperative Court on it's own merit by considering the evidence already recorded and the additional evidence that both the sides would adduce during the trial before the Cooperative Court.

10 Both the learned Advocates pray that the Cooperative Court should decide the dispute as expeditiously as possible and preferably within four months from today. Considering the request, the Cooperative Court shall endeavour to decide the said dispute as expeditiously as possible and preferably on or before 02nd January, 2016.

11 The impugned judgment of the Appellate Court dated 20.12.2014 stands accordingly, modified. Rule is made partly absolute in the above terms.

(RAVINDRA V. GHUGE, J.)