

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.738 OF 2015

Shri. Balu Krishna Tawade and others

.. Petitioners

Versus

Shri. Chaloba Sahakari Doodh Vyavasaik

Sanstha Maryadit, Haloli and others

.. Respondents

Shri. P. D. Dalvi, for the Petitioners.

Shri. Chetan G. Patil, for the Respondent Nos.3 to 5, 9 & 10.

Shri. S. D. Rayrikar, AGP for the Respondent Nos.11 to 13.

CORAM : R.M. SAVANT, J.

DATE : 09th APRIL, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 08.12.2014 passed by the Divisional Joint Registrar, Co-operative Societies (Milk), Pune Division, Pune, by which order the Revision Application No.04 of 2013 filed by the Respondent Nos.1 to 10 herein came to be allowed and the order /decision dated 06.09.2013 passed by the Assistant Registrar, Co-operative Societies (Milk), Kolhapur came to be set aside.

Shorn of unnecessary details a few facts can be stated thus :-

2. The resolution purportedly passed in the meeting dated

02.09.2013 of the Respondent No.1 society, wherein the right to operate bank account was conferred on the Petitioner No.1 and in his absence to the Petitioner No.8 who is his son was sent for approval to the Assistant Registrar, Co-operative Societies (Milk), Kolhapur on 06.09.2013. The record discloses that on the same day i.e. on 06.09.2013 the approval to the said resolution was granted. The passing of the said resolution and its approval on 06.09.2013 it seems has been preceded by certain events which have taken place in the composition of the managing committee of the Respondent No.1 society. It appears that the Petitioner Nos.2 to 7 were removed as Managing Committee and the resignation of the Petitioner No.1 who was at the relevant time the Chairman of the Respondent No.1 was accepted and in their place persons have been co-opted on the managing committee. However, it is not necessary for this Court to delve into the said aspect as the said aspect can be urged and dealt with by the parties at the appropriate time. The Respondent Nos.1 to 10 having got wind of the approval granted by the Assistant Registrar to the Resolution passed on 06.09.2013 filed a Revision Application before the Divisional Joint Registrar, Co-operative Societies (Milk), Pune Division, Pune. The facts which have been referred to in this order were cited in the said Revision Application. The Revisionary Authority as indicated above by its order dated 08.12.2014 has allowed the Revision Application and has set

aside the approval granted by the Assistant Registrar on 06.09.2013. The principal ground on which the approval has been set aside is that the said approval has been granted in breach of the principles of natural justice as no hearing has been granted. The approval has also been set aside on the ground that the same has been granted without considering the record.

3. On behalf of the Petitioners as well as the Respondents submissions were sought to be urged for and against the order of the Divisional Joint Registrar being set aside. In my view, since the Divisional Joint Registrar, Co-operative Societies has set aside the approval granted on 06.09.2013 by the Assistant Registrar on the ground that the approval has been granted in breach of the principles of natural justice in as much as no hearing was granted meaning thereby that the Revision Applicants were not heard and also in view of the fact that the said approval was granted without taking into consideration the record, it would be just and proper to set aside the impugned order and remand the issue back to the Assistant Registrar for a de-novo consideration of the aspect as to whether approval is or is not to be granted to the resolution passed in the meeting dated 02.09.2013. The impugned order dated 08.12.2014 passed by the Divisional Joint Registrar is accordingly quashed and set aside and the matter is relegated back to the Assistant Registrar, Co-operative Societies (Milk), Kolhapur for de-novo consideration of the aspect as to whether the

approval is to be granted or not to the said resolution dated 06.09.2013. Needless to state that the Assistant Registrar would hear all the parties and after taking into consideration the record pass appropriate orders in accordance with law. The issue of maintainability of the application for approval is also kept open for being urged before the Assistant Registrar. The remand is directed in view of the fact that the Divisional Joint Registrar in view of the conclusion that he had reached ought to have remanded the matter back to the Assistant Registrar, that being not done this Court in its Writ Jurisdiction deems it appropriate to remand the matter back to the Assistant Registrar. The setting aside of the order of the Divisional Joint Registrar should not be construed as any expression of opinion on the merits of the case of either of the parties. The application would be decided on its own merits and in accordance with law. The Assistant Registrar to decide the said issue latest by 15.05.2015. The parties to appear before the Assistant Registrar on 16.04.2015. The Learned AGP Shri. S. D. Rayrikar to communicate the developments in the above Petition to the Assistant Registrar. The Petition is allowed to the aforesaid extent. Rule is accordingly made absolute. No orders as to costs.

[R.M. SAVANT, J]