

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

WRIT PETITION NO. 10685 OF 2014

Shri Dinkarrao Bhauso Jadhav & ors. ... Petitioners

V/s.

The State of Maharashtra & ors. ... Respondents

Mr. N.V. Walawalkar, Sr. Counsel i/b. A.M. Adagule for petitioner.

Mr. Y.S. Jahagirdar, Sr. Counsel i/b. Mr. S.S. Patwardhan for respondent no.5.
Mr. C.P. Yadav, AGP for respondents 1 to 4.

**CORAM : NARESH H. PATIL AND
A.S. GADKARI, JJ.**

12th January, 2015.

P.C.

The contention of the petitioners is that on a grievance made by them, the respondent Regional Joint Director (Sugar) Kolhapur Region, Kolhapur by an order dated 23rd July, 2012 constituted a committee to enquire into the allegations made by the petitioners that respondent karkhana had enrolled 17000 bogus members. Affidavit-in-reply has been filed by the respondent-Regional Joint Director (Sugar), Kolhapur. It is submitted that the respondent had submitted opinion in respect of 3000 newly admitted members on 31st October, 2014. The enquiry is being carried out by the office of respondent no.4 by employing staff of office of a Special Auditors Class-I (Sugar) of Kolhapur for enquiring and

scrutinizing cases of 17563 newly admitted members. Learned AGP submits that so far around 800 cases have been scrutinized by the Committee and the work is going on. On instructions, learned AGP submits that Director (Sugar) would continue to work in accordance with orders passed by the State. It is submitted that inspite of the instructions issued to Karkhana for providing necessary information and relevant documents in respect of members, the Karkhana administration is not forwarding the required material to the respondents.

2. The learned Senior Counsel appearing for petitioner submits that keeping the rights of the affected party-respondents open, in respect of the orders passed by the respondent-Director in exercise of powers under Section 89 of the Maharashtra Co-operative Societies Act, 1960 the Registrar shall take necessary steps to inspect the record, conduct and finalise the preliminary enquiry at the earliest. Learned Counsel submits that some amount would be deposited with the respondent to meet out the basic expenses.

3. The learned Counsel appearing for respondent-Karkhana submits that petition has been filed by political rival. The petition is politically motivated. The petitioner do not have right to seek mandamus or any other order from this Court in connection with the subject matter of this petition. Adequate alternate remedies are available to the petitioners as prescribed under the Maharashtra Co-operative Societies Act and the petitioner may resort to the same in case they have any cause of action. It is submitted that revision petition has already been filed against the order passed by the Director constituting a committee and in respect of alleged enrollment of the members of the Karkhana. Any order passed in this petition is likely to affect outcome of the revision petition, according to

learned Counsel. It is submitted that the competency of the respondent-Director to enquire into the allegations made by the petitioners in exercise of powers under Section 89 of the Act is a question before the State. The learned Counsel referred to provisions of Section 11 and 152 of the Act.

4. We have perused the relevant record placed before us and relevant provisions of the Act. The respondent-Director had already commenced the inspection in accordance with the provisions of Section 89-A. Certain allegations are made that large number of persons who are not entitled to be registered as members of karkhana have been enrolled as members which is likely to affect the outcome of the elections to be held for constitution of Board of Directors.

5. We do not express any opinion in respect of the allegations made by the petitioners. However, in case the respondent-Director is in receipt of certain material brought to his notice inviting to exercise his powers under the Co-operative Societies Act then the respondent-authority may invoke such powers in accordance with law. In the present case it is informed that respondent-authority has exercised powers under Section 89-A under orders passed on 23rd July, 2012. The respondent Karkhana has preferred a revision. In the affidavit Director has contended that expenditure of about Rs. 15 lakhs (Rupees Fifteen lakhs only) is required for the purposes of issuance of notices in newspapers, stationary, postage, etc. We do not express any opinion on the amount calculated by the Director for making expenditure on the items mentioned in the affidavit. However, the petitioners shall deposit the amount of Rs. 2 lakhs (Rupees Two lakhs only) with the respondent-Director. The respondent-Director shall maintain the account of the said amount.

6. We observe that the inspection carried out under Section 89-A by the Director shall be expeditiously completed without prejudice to the rights of the respondent-karkhana in the revision petition filed before the State against the order passed by the respondent-Director. It is clarified that in case respondent-karkhana moves the revision for any orders, the State Government is at liberty to pass appropriate orders strictly in accordance with law on the motion made by the respondent-Karkhana in the revision petition without being influenced by the orders passed by this Court.

7. All issues on merits are kept open for the parties. With aforesaid observations and directions, Writ Petition is disposed of.

(A.S. GADKARI, J.)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.