

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

**WRIT PETITION NO.2961 OF 2015**

**Sau. Vaishali Balasaheb Nagawade**

**.. Petitioner**

**Versus**

**State of Maharashtra and others**

**.. Respondents**

**WITH**

**WRIT PETITION NO.2962 OF 2015**

**Mr. Vinayak D. Patil**

**(Ex-Chairman, Mahanand and others**

**.. Petitioners**

**Versus**

**State of Maharashtra and others**

**.. Respondents**

**Shri. J. G. Reddy (Aradwad), for the Petitioners.**

**Shri. Ranvir Shekhawat, for the Respondent No.3 in both Petitions.**

**Shri. A. I. Patel, AGP for the Respondent Nos.1 & 2.**

**CORAM : R.M. SAVANT, J.**

**DATE : 23<sup>rd</sup> APRIL, 2015**

**PC.**

1. The above Petitions take exception to the order dated 16.03.2015 passed by the Joint Registrar, Co-operative Societies (Milk), Maharashtra State, Mumbai. By which order the Petitioners in the above Petitions have been disqualified under Section 73CA of the Maharashtra Co-operative Societies Act on the ground of being defaulters and

consequently stand removed as office bearers and directors of Mahanand Dairy i.e. Respondent No.3 herein. The said orders have been challenged on the ground that no procedure was followed prior to the passing of the said orders which have serious consequences for the Petitioners. In fact, in the impugned orders it has been observed that in so far as the inquiry under Section 73CA(1) is concerned, the affected party is not required to be heard. The Petitioners have sought to place reliance on the judgment of the Full Bench of this Court reported in 2009(6) Mh.L.J. 500 in the matter of Narayan s/o Gulabrao Bhoyar Vs. Yeotmal Zilla Parishad Karmachari Sahakari Pat Sanstha Maryadit Yeotmal & Anr. in support of their contention that the principles of natural justice are required to be followed prior to an office bearer or a director or a member is declared as a defaulter. Though the said judgment was rendered under Section 73FF of the said Act as was in operation then. The present Section 73CA being a successor section of the old Section 73FF, the said judgment would according to the Petitioners apply on all fours to the case of the Petitioners. The Petitioners have also sought to make out a case that the provisions of Section 73CA are not attracted having regard to certain antecedent facts. In my view, it is not necessary for this Court to enter into the said arena in view of the pursis that has been filed on behalf of the Respondents in both the Petitions. The contents of the pursis are

reproduced herein under for the sake of ready reference-

“That the respondent No.2 hereby withdraw the earlier order dated 16.3.2015 impugned in the above Petition.

That the respondent No.2 agrees to follow the procedure under Rule 58 of the Maharashtra Cooperative Societies Rule 1961 by giving show cause notice to the petitioners and then to pass the order after following due procedure under law. In view of the aforesaid this Hon'ble Court may be pleased to direct the petitioner to cooperate in the proceedings that may be initiated against them under section 73CA of the Maharashtra Cooperative Societies act, 1960 and the Rule 58 of the aforesaid rule.”

In view of the said pursis, it is not necessary for this Court to consider the orders on merits as the orders in terms of the pursis are withdrawn and the Respondents have made a statement that they would follow the procedure commencing with the issuance of a show-cause notice in terms of Rule 58. Hence, by taking the pursis on record and by accepting the statements made in the said pursis, the above Writ Petitions are disposed of. In the event any order is passed against the Petitioners, the same not to be given effect to for a period of two weeks from the date of communication of the said order to the Petitioners. The pursis are marked as 'X' and 'Y' for identification.

**[R.M. SAVANT, J]**