

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4300 OF 2013

Sanjay K. Kolge. .. Petitioner
Vs
The State of Maharashtra and Others. .. Respondents
—
Shri D.W. Bhosale for the Petitioner.
Mrs. M.P. Thakur, AGP for the Respondent Nos.1, 2, 4 to 10.
Shri Vijayprakash Yadav for the Respondent No.14.
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CORAM : A.S. OKA &
VLACHLIYA, JJ
DATED : 12TH OCTOBER 2015

P.C.

. Heard the learned counsel appearing for the Petitioner and the learned AGP for the first, second and fourth to tenth Respondents. We have also heard the learned counsel appearing for the fourteenth Respondent.

2. Rule. The learned AGP waives service for the first, second and fourth to tenth Respondents. The Advocate for the fourteenth Respondent waives service.

3. As a limited issue involved in this Petition, the same is taken up forthwith for final disposal. The averments made in the Petition disclose that the Petitioner was being appointed as an

Administrator of various Co-operative Housing Societies in exercise of powers under the provisions of the Maharashtra State Co-operative Societies Act, 1960 (for short “the said Act of 1960”). By the communication dated 1st April 2013, the Divisional Joint Registrar of the Co-operative Societies, Mumbai, informed various officers appointed under the provisions of the said Act of 1960 that the name of the Petitioner shall be included in the blacklist and that he shall not be appointed as an Administrator/authorized officer under the provisions of the said Act of 1960.

4. Considering the fact that the impugned communication attaches stigma to the Petitioner, we called upon the the learned AGP to take instructions as to whether any opportunity of being heard was granted to the Petitioner by the Divisional Joint Registrar of the Co-operative Societies, Mumbai before directing that the name of the Petitioner shall be included in the blacklist. Today, the learned AGP on instructions of Shri Vikas Korade, Senior Clerk of the Divisional Joint Registrar Office states that there is no record available to show that any show cause notice was issued to the Petitioner.

5. As such a drastic communication containing a stigma has been issued without following the principles of natural justice, the same deserves to be quashed and set aside only on that ground.

6. Hence, we pass the following order:

ORDER :

- (a) The impugned communication dated 1st April 2013 is hereby quashed and set aside;
- (b) We direct the Divisional Joint Registrar of the Co-operative Societies, Mumbai, to issue a show cause notice to the Petitioner calling upon him to show cause as to why his name should not be ordered to be blacklisted. It is obvious that all material particulars or grounds shall be set out therein on which the Petitioner is proposed to be blacklisted;
- (c) Such notice shall be issued on or before 21st November 2015. Time of 15 days shall be granted to the Petitioner to file a reply to the show cause notice;
- (d) The appropriate order shall be passed on the said show cause notice as expeditiously as possible and in any event on or before 31st December 2015;

- (e) Considering the controversy, we direct that till 31st December 2015 or till the date on which the show cause notice is decided, whichever is earlier, the Petitioner shall not be appointed as an Administrator or the authorized officer;
- (f) We make it clear that no adjudication is made on the issue whether the Petitioner deserves to be blacklisted;
- (g) All contentions on merits are kept open;
- (h) The Rule is made partly absolute on above terms.

(V.L. ACHLIYA, J)

(A.S. OKA, J)