

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 638 OF 2014

(Purushottam Trimbak Vyas vs. Union of India, Department of Agriculture & Cooperation thr.
its Secretary & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's Orders.

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
P.N. DESHMUKH, JJ.
OCTOBER 21, 2015.**

Heard Shri Harkare, learned counsel for the petitioner, Shri Deo, learned ASGI for respondent Nos. 1 & 2 and Shri Ghare, learned counsel for respondent No. 3.

Perused the reply affidavit tendered on behalf of Respondent No. 3.

After hearing the respective counsel, we have perused the provisions of Section 86 of the Multi State Cooperative Societies Act, 2002 (hereinafter referred to as the Act). Section 86 appears in Chapter X, which is on winding up of Multi State Cooperative Society. Its sub-section (2) enables the State Government to make an order directing winding up of Multi State Cooperative Society where such Multi State Cooperative Society has not commenced working within a period of six months of the date of registration or such extended period as the Central Government may allow in this behalf or then seized to function in accordance with Cooperative principles.

The submissions of Shri Harkare, learned counsel is, in the last 15 years, Respondent No. 3 has not succeeded

in opening a single branch out of the State of Maharashtra and, therefore, it is not a Multi State Cooperative Society at all. He adds that it has not commenced working accordingly.

Shri Ghare, learned counsel as also Shri Deo, learned ASGI rely upon the language of said provision to submit that opening of branch outside the State of Maharashtra is not mandatory. The impugned communication by which representation of the petitioner has been rejected by Respondent No. 2 expressly takes note of the fact that the persons residing in Madhya Pradesh are already enrolled as members and hence according to them Respondent No. 3 has already commenced working as Multi State Cooperative Society.

The provisions on which reliance has been placed show that a society which has already been registered as Multi State Cooperative Society can be ordered to be wound out if it has not commenced its working within six months of its registration. Here Respondent No. 3 has pointed out the efforts made by it for seeking permission from the Reserve Bank of India to open branches in the State of Madhya Pradesh. That permission has been rejected. However, the petitioner is only relying upon failure of Respondent No. 3 to open any branch in Madhya Pradesh as an indication of the fact that Respondent No. 3 has not started working as a Multi State Cooperative Society. The reliance upon the provisions of Section 86(2)(b) of the Act, for said purpose is misconceived. The said provision nowhere envisages absence of branches outside the State of

Maharashtra or inability to open such branch in other States as an indication of failure to commence working.

The petitioner had approached Respondent No. 2 with said grievance. Respondent No. 2 has looked into it and has recorded a finding that there are 55 members enrolled by Respondent No. 3 and those members are from Madhya Pradesh. This finding of fact is not in dispute before this Court. It is, therefore, apparent that Respondent No. 3 has already commenced its out of State operation by enrolling persons who are not residing within the State of Maharashtra. Our attention has not been invited to any other provision of the Act and there is no attempt to urge that mere enrollment of such members is not sufficient.

We, therefore, find no case made out warranting interference. Writ Petition is rejected. However, there shall be no order as to costs.

JUDGE

JUDGE

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