

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6542 OF 2014

Kiran Vinayakrao Patil and others

-VS-

State of Maharashtra and others

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

Court's or Judge's Orders.

Mr.P.S.Patil, counsel for the petitioners.
Mr.N.S.Rao, AGP for the respondent Nos.1 to 4.
Mr.A.M.Ghare, counsel for the respondent No.5.

CORAM : SMT. VASANTI A. NAIK &
A.M.BADAR, JJ.

DATE : 06.05.2015.

By this petition, the petitioners seek a direction to the respondents-Commissioner of Cooperation and Divisional Deputy Registrar to take action against the Cooperative Society in pursuance of the report, dated 11/11/2014 and cancel the recruitment process for appointment on various posts.

We had disposed of this writ petition by an order, dated 08/12/2014 after upholding the preliminary objection raised by the learned Assistant Government Pleader in regard to the existence of an alternate efficacious remedy. This Court had not considered the merit of the petition before deciding the same and the writ petition was not entertained only in view of the availability of the alternate remedy. We had recalled our order dated 08/12/2014 by the order dated 27/04/2015, as it was pointed out to this Court by the learned counsel for the original respondent-applicant in miscellaneous civil application that the petitioners had not pointed out that the issue in regard to the tenability of the proceedings filed by the petitioners under Section 91 of the

Maharashtra Cooperative Societies Act, 1960 was pending before the learned Single Judge of this Court and that an application filed by the petitioners in Writ Petition No.3345 of 2014 for clarification of the order holding that an alternate remedy was available, was rejected. On recall of the order, dated 08/12/2014, this writ petition is being heard.

The petitioners are the Directors of the respondent No.5-Bank and they had challenged the advertisement issued by the Bank for making recruitment of the staff, in Writ Petition No.3345 of 2014. The said writ petition was dismissed on the ground of alternate remedy. The petitioners filed a dispute under Section 91 of the Maharashtra Cooperative Societies Act before the Cooperative Court. An objection was raised by the contesting respondents in regard to the maintainability of the dispute under Section 91 of the Act of 1960 and the said issue is now pending before the learned Single Judge in a writ petition. In the meanwhile, the petitioners made complaints against the recruitment process and a report was prepared by the District Deputy Registrar. In the said report, according to the petitioners, it is mentioned that some irregularities were found, while making the recruitment. The petitioners then approached the District Deputy Registrar and the Commissioner of Cooperation for taking action against the Bank in pursuance of the report. Since no action was taken, the petitioners have approached this court in the present writ petition.

On hearing the learned counsel for the parties and on a perusal of the documents annexed to the writ petition, it appears that the present writ petition is an offshoot of the challenge to the recruitment process, that was made in Writ Petition No.3345 of 2014. The petitioners have filed the dispute against the Bank under Section 91 of the Act

of 1960. If the District Deputy Registrar has found any illegalities in the recruitment process, the petitioners are free to point out those irregularities in the matter filed by the petitioners before the Cooperative Court. The petitioners are trying to avail more than one remedies at the same time. The petitioners have filed a dispute against the Bank under Section 91 of the Cooperative Societies Act and have also pursued the complaints against the Bank before the Commissioner of Cooperation and the District Deputy Registrar. The petitioners ought to have elected a remedy. Since the petitioners have challenged the recruitment process before the Cooperative Court, the subsequent developments could be pointed out to the Cooperative Court in the dispute that is filed by the petitioners under Section 91 of the Act of 1960. The question about the tenability of the dispute under Section 91 of the Act is pending before the learned Single Judge and, therefore, we would not like to express on the said issue. Also, it is necessary to note that the petitioners are the Directors of the respondent No.5-Bank in minority and since the Directors in majority have initiated the process of recruitment, the petitions are being filed.

In the result, we dispose of the writ petition with liberty to the petitioners to take appropriate steps in the proceedings filed before the Cooperative Court or to file any other proceedings that are permissible in law. The issues raised in the petition are kept open.

Order accordingly. No costs.

JUDGE

JUDGE