

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 659 OF 2015

The Khultabad Vishal Vividh Karyakari Seva
Sahakari Sanstha Maryadit, Khultabad,
Through its Chairman,
Sakharam Ganpat Golhar

.. **Petitioner**

Versus

The State of Maharashtra,
Through its Secretary,
Co-operation and Textile Department,
Mantralaya, Mumbai and others

.. **Respondents**

Shri Niteen V. Gaware, Advocate for the Petitioner.
Shri N. B. Patil, A. G. P. for the Respondent Nos. 1 and 3.
Respondent No. 2 served.
Shri S. S. Thombre, Advocate for the Respondent No. 4.

CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.
DATE : 24TH JUNE, 2016.

PER COURT :-

1. Mr. Gaware, the learned counsel for the Petitioner submits that, the Petitioner had appointed its Joint Secretary as a Secretary and the proposal seeking approval to the said appointment is already sent to the District Deputy Registrar, Co-operative Societies, Aurangabad on 9th December, 2013. No communication is made by the office of the District Deputy Registrar. Abruptly on 27th October, 2014 communication was made by the District Level Committee i.e. Respondent No. 2 to the Respondent no. 4 to close the account of the Petitioner. The learned counsel submits that, said action is without jurisdiction.

The Respondent No. 2 does not have any authority to issue such directions to the Respondent No. 4. According to the learned counsel, the Petitioner has a right to appoint the Secretary. It is not the case of the Respondents that the person appointed as a Secretary by the Petitioner is ineligible. According to the learned counsel, by way of abundant caution even proposal is submitted to the District Deputy Registrar seeking approval to the appointment and the District Deputy Registrar is a Chairperson of the Respondent No. 2 / Committee.

2. The learned A. G. P. submits that, the Respondent No. 2 had directed Petitioner to appoint one Mr. Dandekar as a Secretary. In defiance of the same the Petitioner appointed one Mr. Wakale as a Secretary. The circular dated 30th September, 2009 is clear that the Secretary is to be appointed as per the directions of the Respondent No. 2 / Committee and only if, the Secretary is not available to be appointed to the institution then, the institution can appoint and seek approval from the Respondent No. 2. The said procedure has not been adhered too.

3. We have also heard Mr. Thombre, the learned counsel for the Respondent No. 4 who submits that, they were required to abide by the directions issued by the Respondent No. 2.

4. We have considered the submissions.

5. No provision is pointed out by the Respondents pursuant to which the directions were issued to close down the account. This court vide order dated 27th January, 2015 had stayed the said communication issued by the Respondent No. 2.

6. It appears that the Petitioner has already forwarded proposal for seeking approval to the appointment of Mr. Wakale as

a Secretary to the District Deputy Registrar on 9th December, 2013. No decision is taken upon the same and the impugned action is resorted to by the Respondent No. 2. In fact, decision ought to have been taken on the proposal submitted by the Petitioner seeking approval to the appointment of Mr. Wakale as the Secretary. However, the same does not appear to have been done till date.

7. Considering the above the impugned communication is quashed and set aside. The Respondent No. 2 is at liberty to take decision on the proposal submitted **“Exh. D”**. The Petitioner may present himself before the authority concerned.

8. The Writ Petition is accordingly disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

sam/June.16