

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 186 OF 2016

Shree Ganesh Gramin Bigar
Sheti Sahakari Pathsanstha Maryadit,
Kavlapur, Tal. Miraj Dist. Sangli through
its Authorised Signatory

1] Shri. Bhimrao C. Mohite and anr. .. Petitioners

vs.

State of Maharashtra and ors. .. Respondents

Mr. Manoj J. Patil for the Petitioners.

Ms M.S.Bane, learned B-Panel counsel for the Respondent Nos.1 to 3.

CORAM : M. S. SONAK, J.

DATE : 29 FEBRUARY 2016.

P.C. :-

1] The challenge in this petition is to the orders dated 31 August 2015 and 15 December 2015 made by the Divisional Joint Registrar and the Minister (Cooperative Society), the effect of these orders is to permit action under Sections 146(i), 146(j) and 146(k) of the Maharashtra Cooperative Societies Act, 1960 (said Act) .

2] From the perusal of the impugned orders, it cannot be said that there is any jurisdictional error in mere granting permission to initiate action under the aforesaid provisions. Although, Mr. Patil has contended that there was no compliance with the principles of natural justice and fair play before such permission was granted, the record would reveal that ample opportunities were afforded to the

Petitioners to furnish their say. Whatever say that was furnished by the Petitioners has also been taken into consideration. In fact, the record would reveal that the Petitioners went on applying for information and the documents on the purported ground that same is necessary to give further say. In this manner, if the Petitioners have themselves, not availed all the opportunity which was granted to them, it is hardly open to the Petitioners to complain about violation of principles of natural justice and fair play. That apart, the matter can be viewed from yet another perspective.

3] In this case, no action has been taken against the Petitioners under Section 146 of the said Act. The impugned orders, upon record of *prima-facie* findings, have only permitted taking of action under the said provisions. This means that once the action commences, the Petitioners, will once again, have full opportunity in the matter of establishing that they have committed no offences under Section 146 of the said Act. At this stage, detailed investigation is certainly not contemplated. There is no jurisdictional error in the making of impugned orders for this reason as well.

4] For the aforesaid reasons, there is no necessity to entertain the present petition.

5] However, it is clarified that the Authorities, once they initiate action under Section 146 of the said Act, will not be influenced by any of the observations contained in the impugned orders or for that matter the present order. Further, needless to add that full opportunity will be afforded to the Petitioners in a matter of their defence, at that stage.

6] With the aforesaid observations, the present petition is dismissed. There shall, however, be no order as to costs.

(M. S. SONAK, J.)

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