

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 2419 OF 2015

Mr. Nitin Dashrath Borade

... Petitioner

Vs

1. State of Maharashtra & Ors.

... Respondents

Mr. Abhijit P. Kulkarni for the Petitioner.

Ms. Sushma Bhende, AGP, for the Respondent Nos.1 to 4.

Mr. Milind Sathe, senior counsel with Mr. Ajit Jakhadi and Mr. Amol Chile for the Respondent No.12.

**CORAM : S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.**

WEDNESDAY, 16TH NOVEMBER, 2016

P.C. :

1. The petitioner is aggrieved by the registration of a Co-operative Credit Society.

2. The petitioner states that though never associated with anybody in its promotion and formation, curiously while obtaining registration for such an entity, the petitioner's father has been roped in and shown as a Member, his father's signatures

have been forged and the entire record fabricated to obtain the registration.

3. Upon hearing Mr. Kulkarni at some length and perusing the writ petition with his assistance so also the order passed with the *prima facie* observations dated 27th March, 2015, on this petition, we are of clear view that the writ petition involves disputed questions of fact.

4. The contesting respondents include respondent No.5 who has filed an affidavit-in-reply. Though the petitioner may like us to peruse this affidavit in detail and cull out an admission therein, what we have noted is that on the writ petition itself, this Court would be required to probe and find out as to whether the petitioner's father's name has been erroneously entered. The signature is not that of the petitioner's father and that the registration certificate was obtained by making false statements in the application. All this would require the Court to go into the contents of the documents. Further, the allegations of the petitioner cannot be established but by a process and long drawn of tendering oral and documentary evidence. In such

circumstances and when the petitioner has an alternate and equally efficacious remedy under the Maharashtra Co-operative Societies Act, 1960, of an appeal under section 152 of the said Act, we refuse to entertain the writ petition. It is disposed of on this short ground alone.

5. Needless to clarify that the petitioner is at liberty to file an appeal under section 152 or such other legal proceedings as are permissible in law and seek a further direction that these proceedings be entertained though the statutory period of limitation for instituting them has expired by granting the benefit of pendency of this writ petition and the *prima facie* observations of this Court. Equally, all contentions to the contrary on maintainability and merits of all parties are kept open.

B.P. COLABAWALLA, J. S.C. DHARMADHIKARI, J.