

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

**CIVIL APPLICATION NO.2893 OF 2016
IN
WRIT PETITION NO.7969 OF 2014
ALONG WITH
WRIT PETITION NO.7969 OF 2014**

Dhairyshil Anandrao Patil (Kaulavkar) & ors. : Applicants

In the matter between

**Bhogawati Sahakari Sakhar Karkhana Ltd.
Shahu Nagar, Parite, Tal.Karveer, Dist.Kolhapur : Petitioner.**

**versus
State of Maharashtra and ors. : Respondents.**

**Mr. H S Venegaonkar i/by Mr. A L Bhise for the Applicants/Petitioner.
Mrs. V S Nimbalkar, AGP, for the Respondent Nos.1 to 3.**

**CORAM : R. M. SAVANT, J.
DATE : 01st December 2016**

P.C.

1 The above Civil Application has been filed by the Applicants for restoration of the above Writ Petition which has stood dismissed for non-prosecution, and also seeking the relief that they may be permitted to prosecute the above Writ Petition as Petitioners and to transpose the original Petitioner as Respondent in view of the change in circumstances. The change in circumstances is to the effect that the Board of Directors of the Petitioner Karkhana has been superseded and an Administrator has been appointed on the Petitioner Karkhana.

2 The order under challenge in the above Writ Petition is one passed under Section 83 of the Maharashtra Co-operative Societies Act recording findings against the then Board of Directors of the Petitioner Karkhana, who as indicated above are the Applicants.

3 In so far as the Application for restoration of the above Writ Petition is concerned, the same is allowed. Resultantly, the above Writ Petition is restored to filed.

4 In my view, the Applicants cannot be permitted to join as Petitioners in a Petition which is originally filed by the Respondent No.1 Karkhana as the Karkhana is now under an Administrator. Since the Applicants are undoubtedly affected by the impugned order, it is for them to file an independent Writ Petition challenging the order dated 13/08/2014 passed under Section 83 of the said Act by the Regional Joint Director (Sugar) Kolhapur Division, Kolhapur.

5 Hence in so far as the relief of permitting the Applicants to prosecute the above Writ Petition as Petitioners and to transpose the original Petitioner as Respondent in view of the change in circumstances is concerned, the same cannot be granted. However, the Applicants are granted liberty to file an independent Writ Petition challenging the order impugned in the above Writ

Petition. The said course of action is required to be followed in the special facts and circumstances of the instant case. The fact that the Applicants would now be filing a Writ Petition would not come in their way in challenging the impugned order as the impugned order was already under challenge in the above Writ Petition. With the aforesaid observations the above Civil Application is disposed of.

5 In view of the order passed in the above Civil Application, the above Writ Petition would not survive and to accordingly stand disposed of as such. The learned counsel appearing for the Applicants/Petitioner states that the Applicants would file the said independent Petition within a period of 4 weeks from date. The interim arrangement as recorded in the letter dated 17/09/2014 of the advocate on record of the Petitioner Miss Sweta M Nijhawan would therefore continue to operate for a period of four weeks i.e. till 05/01/2017.

[R.M.SAVANT, J]