

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO.11444 OF 2014**

M/s. Kishor Construction. ] ... Petitioner

Versus

Shri Indranil Chatarji and Ors. ] ... Respondents

Mr. N. V. Khaladkar for Petitioner.

Mr. P. D. Dalvi for Respondent Nos.1, 2 and 8.

Mrs. Vaishali Nimbalkar, A.G.P. for Respondent Nos.3 to 6.

**CORAM :- M. S. SONAK, J.**

**DATE :- JANUARY 27, 2016**

**P. C. :-**

1. On 07/12/2015, this Court had made the following order :-

*"1] Place the matter on 17 December 2015, high on board, on the supplementary board.*

*2] The grievance of the Petitioner is that the impugned order made by the Minister (Cooperation) was without afford of any opportunity of hearing to the Petitioner. The Respondents, if they chose, to, may file a reply on or before 14 December 2015, on the aspect of whether or not opportunity of hearing was afforded to the Petitioner. If no such reply is filed, then the petition will be heard and disposed of, at the stage of admission itself on the basis of uncontested averments in the petition."*

2. Accordingly, **Rule**.

3. In view of the aforesaid order, Rule is made returnable forthwith.

4. No reply has been filed by and on behalf of respondent no.6, on the aspect of whether or not opportunity of hearing was afforded to the petitioner before making of the impugned order. Today, Mrs. Nimbalkar, learned A.G.P., places on record notice dated 04/09/2014 and Roznama dated 09/09/2014. Therein no evidence produced with regard to service of such notice upon the petitioner. So also, the Roznama produced neither indicates that the petitioner was served nor was, as a corollary, any hearing offered to the petitioner.

5. The challenge in this petition is to the order dated 25/09/2014, by which the Minister (Co-Operation) has allowed the revision petition instituted by respondent no.8, to which, the petitioner had been impleaded as respondent no.4. By the impugned order, the Minister (Co-Operation) has quashed and set aside the order dated 16/07/2014 made by the Divisional Joint Registrar, Pune. The order dated 16/07/2014 made by the Divisional Joint Registrar was made in favour of the petitioner, as the Divisional Joint Registrar had set aside orders dated 13/09/2013 and 10/10/2013 made by authorities subordinate to him. In these circumstances, before the order dated 16/07/2014 could be set aside, it was necessary that proper notice was issued to the petitioner and the petitioner was

afforded an opportunity of hearing in the matter. This having not been done, there is breach in compliance with the principles of natural justice and fair play.

6. Mr. Dalvi, learned Counsel for respondent nos.1, 2 and 8, however contended that the petitioner, who is a builder, has no *locus standi* to challenge the registration of a society. For this purpose, he placed reliance upon the decision in the case of ***Om Sai Pratibha Co-op. Hsg. Soc. Versus State of Maharashtra and others***<sup>1</sup>.

7. At this stage, it is not necessary to decide the aforesaid issue or for that matter, the issue as to whether the decision in the case of ***Om Sai Pratibha*** (*supra*) will at all apply to the facts and circumstances of this case. However, record will bear out that the petitioner had appealed against the decision in the matter of registration of society by the respondent no.8. By the order dated 16/07/2014, the Divisional Joint Registrar had allowed such appeal and ruled in favour of the petitioner. If the order dated 16/07/2014 had to be set aside, then, to such proceedings, the petitioner was a necessary party. The respondent no.8, having appreciated this position, in fact, impleaded the petitioner as respondent no.4 in the revision petition. If that be so, the petitioner had to be properly served and thereafter heard in the matter.

---

<sup>1</sup> 2002 (5) Bom.C.R. 177

8. Accordingly, for the aforesaid reasons, the impugned order dated 25/09/2014 is set aside. Any consequential action in pursuance of the impugned order dated 25/09/2014, including, *inter alia*, registration of the society, is hereby set aside. The matter is, however, remanded to the Minister (Co-Operation) for fresh disposal of the revision petition instituted by the respondent no.8. This shall be done after afford of an opportunity of hearing to all the parties and as expeditiously as possible. In act, it is directed that the revision petition be disposed of within a period of three months from the date of production of authenticated copy of this order.

9. The parties to appear before the Minister (Co-Operation) on 10/02/2016 at 3.00 p.m. and produce authenticated copy of this order.

10. It is made clear that this Court has not examined the merits of the matter and therefore all contentions of all parties, including, *inter alia*, the issue of *locus standi* of the petitioner to question registration, is kept open.

11. Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

12. All concerned to act on basis of authenticated copy of this order.

**(M. S. SONAK, J.)**