

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.6763 of 2015

(Pandurang Sheshrao Kale

vs.

State of Maharashtra, through Joint Registrar, Co-operative Societies, Amravati and others)

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri V.D. Darne, Advocate for the petitioner.

Ms. T.H. Udeshi, A.G.P. for respondent Nos.1 to 3.

Shri K.S. Narwade, Advocate for respondent Nos.4 to 10.

CORAM : A.S. CHANDURKAR, J.

DATE : 15th JUNE, 2016.

Heard.

The challenge in the present writ petition is to the order passed by the Divisional Joint Registrar, Co-operative Societies, Amravati thereby allowing the appeal filed by respondent Nos.4 to 10 and setting aside the order passed by the Assistant Registrar, Co-operative Societies, Yavatmal under Section 77-A of the Maharashtra Co-operative Societies Act, 1960 (for short, 'the Act').

According to the petitioner, on account of non-holding of Annual General Meeting in the years 2012 and 2013, various members had made a complaint with the Assistant Registrar. The Assistant Registrar inspected the records of the society in question and submitted a report on 27/02/2015. The Assistant Registrar thereafter on 18/04/2015 passed an order

under Section 77-A of the Act and ordered appointment of an authorized officer. The respondent Nos.4 to 10 challenged the said order in an appeal under Section 152 of the Act and by the impugned order, said appeal has been allowed.

Shri V.D. Darne, the learned Counsel for the petitioner submitted that the Assistant Registrar on being satisfied that there was need for taking immediate action, had appointed the authorized officer under the provisions of Section 77-A of the Act. According to him, in the order itself such satisfaction has been recorded and therefore it was not necessary to issue a notice before passing said order. He submitted that the appellate authority misdirected itself when it observed that the Assistant Registrar had passed the order without issuing any notice to the concerned parties.

Shri K.S. Narwade, the learned Counsel for respondent Nos.4 to 10 supported the impugned order. He submitted that the requirements of Section 77-A of the Act were not satisfied and therefore, the appeal was rightly allowed. He submitted that the requirement of issuing a notice before appointing an authorized officer had not been duly fulfilled. He in fact submitted that there was no case whatsoever for appointing an authorized officer under provisions of Section 77-A of the Act.

Ms. T.H. Udeshi, the learned Assistant Government Pleader for respondent Nos.1 to 3 supported the impugned order.

Perusal of provisions of Section 77-A of the Act indicates that the requirement of publishing a notice and inviting objections and suggestions can be dispensed with if the Registrar is satisfied that that immediate action is required to be taken or that it is not reasonably practical to publish such notice. The order passed by the Assistant Registrar under Section 77-A of the Act, however, does not reflect that there was any urgency in the matter or that it was not reasonably practical to publish such notice. It is on this basis that the appeal filed by respondent Nos.4 to 10 has been allowed. Considering the provisions of Section 77-A of the Act, I do not find that the appellate authority committed any error in setting aside the order dated 18/04/2015.

In view of aforesaid, there is no case made out to interfere in writ jurisdiction. It is, however, clarified that in case the situation arises, it is open for the appropriate authority to take appropriate action in accordance with law.

The petition is dismissed. No costs.

JUDGE