

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 05504 of 2014

District : Osmanabad

Baburao s/o. Dadarao Bansode,
Age : 59 years,
Occupation : Nil,
R/o. Bhim Nagar, Osmanabad,
Dist. Osmanabad.

.. Petitioner.

versus

1. Varuda Vividh Karyakari
Sahakari Society Ltd.,
Varuda,
Taluka & Dist. Osmanabad,
Through its Secretary,
Shivaji Chandrakant Karande,
Age 40 years,
Occupation : Service,
Office At : Varuda,
Taluka & Dist. Osmanabad.

2. Pandurang s/o. Krushnath
Gadhane,
Ex-Chairman of the
Varuda Vividh Karyakari
Sahakari Society Ltd.,
Varuda,
Taluka and Dist. Osmanabad.

3. Assistant Registrar,
Co-operative Societies,
Osmanabad,
Government Administrative
Building, Room No.48,
3rd Floor, Osmanabad,
Dist. Osmanabad.

.. Respondents.

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Mr. R.P. Bhumkar, Advocate, for the petitioner.

Mr. C.V. Korhalkar, Advocate, for respondent no.01.

Mr. P.S. Pawar, Advocate, for respondent no.02.

*Mr. N.T. Bhagat, Asst. Government Pleader, for
respondent no.03.*

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CORAM : RAVINDRA V. GHUGE, J.

DATE : 08TH MARCH 2017

ORAL JUDGMENT :

01. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

02. I have heard the learned Advocates for the respective sides for quite some time and with their assistance, I have gone through the petition paper-book.

03. Considering the order that I intend to pass, I deem it proper not to advert to the entire submissions of Shri Bhumkar, learned Advocate for the petitioner, and Shri Korhalkar, learned Advocate for respondent no.01, since it would result in making certain observations which are likely to come in the way of the respective contentions of the parties.

04. The gravamen of the submissions of Mr. Bhumkar are as under :-

(a) A re-audit has taken place and the audit report dated 24.09.2014 is on record which evidences the fact that there is no amount outstanding towards the

petitioner. The Auditor (Grade-II), Co-operative Societies, Osmanabad, has specifically concluded that the difference of Rs. 37,000/- is not to be recovered from the petitioner.

(b) The Chairman of the Society has deposited entire assessed amounts with interest.

(c) The Chairman has filed an affidavit which is placed on record dated 30.09.2013. Said affidavit was filed before the Maharashtra State Co-operative Appellate Court, Mumbai, Bench at Aurangabad, which was dealing with Appeal No.58/2013 filed by the petitioner.

05. Shri Bhumkar, therefore, submits that the fact that the entire amount was deposited by the Chairman and the affidavit of the Chairman, were not considered by the appellate authority. So also, the subsequent development in the form of the audit report dated 24.09.2014 also needs to be considered by the Co-operative Appellate Court to do justice to the parties. He voices a grievance that merely because of the pending dispute of Rs. 37,000/-, the entire retiral benefits of the petitioner pursuant to his superannuation have not been released by Osmanabad District Co-operative Supervision Society Ltd., Osmanabad

06. Having considered the above, I find that the ends of justice would be met by passing the following

order :-

(A) This Petition is partly allowed.

(B) The impugned order dated 25.02.2014 delivered by the Co-operative Appellate Court is set aside only to enable the petitioner to canvass the aspect of the Chairman depositing the money, the affidavit filed by the Chairman and the effect of the re-audit stated above.

(C) Respondent no.01 - Establishment shall inform Osmanabad District Co-operative Supervision Society Ltd., Osmanabad, to clear the retiral benefits of the petitioner - Baburao s/o. Dadarao Bansode by withholding only Rs. 37,000/- till the Co-operative Appellate Court decides the matter. The rest of the retiral benefits be released expeditiously and preferably within a period of 08 (eight) weeks from today.

(D) Respondent no.01, within one week, shall inform Osmanabad District Co-operative Supervision Society Ltd., Osmanabad, to comply with the above direction.

(E) Appeal No. 58/2013 shall stand remitted to the Maharashtra State Co-operative Appellate Court, Mumbai, Bench at Aurangabad, and the litigating sides shall appear before the said Court on 29.03.2017. Formal notices need not be issued.

(F) All contentions of the litigating sides are kept open to enable the Co-operative Appellate Court to decide the appeal proceedings on their own merits taking into account the contentions of the respective sides as well as those which are recorded in this order.

(G) The Co-operative Appellate Court shall endeavour to decide the appeal proceedings as expeditiously as possible and preferably on or before 31st day of August 2017.

07. Rule is made partly absolute in the above terms.

(Ravindra V. Ghuge)
JUDGE

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