

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4665 OF 2017
(Ambadas Warpudkar Krushi Upyogi Sahitya Purvatha Sahakari
Sanstha Mirkhen Vs.The State of Maharashtra and others)

Mr.Arvind Deshmukh, learned counsel for the petitioner.
Mr.M.B.Bharaswadkar, learned AGP for the State.

(CORAM : M.S.Sanklecha, J.)

DATE : 13/04/2017

PER COURT :

1. This petition challenges the order dated 23/02/2017 passed by the District Deputy Registrar, Co-operative Societies/respondent No.2. The impugned order has rejected the petitioner's application on the ground that it is not a multi-purpose society u/s 13(1)(a)(i) of the Maharashtra Agricultural Produce Marketing (Development and Regulation) Act, 1963 (Act).

2. The issue of the petitioner, being a multi-purpose society, is no longer *res-integra*. The status of societies of the type of which the petitioner is, have held to be a multi-purpose society by this Court in Pimpla Lokhande Shetkari Dhanya Adhikosh Seva Sahakari Sanstha Ltd., and others Vs. The State of Maharashtra and others (WP No.1669/2017), decided on 21/02/2017. In the above view, the

petition would have to be allowed.

3. However, the State has filed an affidavit in reply dated 12/04/2017 to the petition of one Mr. Bhagwan Dudhate, Assistant Registrar, Co-operative Societies, Parbhani pointing out that the liquidation of the petitioner/society has been ordered and Liquidator has been appointed by an order dated 30/12/2015. However, the affidavit states that the Official Liquidator has not yet taken possession of the petitioner/society.

4. Mr.Deshmukh, learned counsel appearing for the petitioner, on the other hand, contends that the petitioner is a working society and the order of liquidation passed by the District Deputy Registrar, Co-operative Societies has been challenged in appeal. Further, the audit report submitted by the petitioner has also been accepted by the State. This would itself evidence the fact that the society is in existence.

5. However, the affidavit in reply disputes that the audit report has been submitted by the petitioner. This would be a factual determination and outside scope of the present writ petition. Therefore, I proceed on the basis that the petitioner has been ordered

to be liquidated. This is so as no order of stay has been obtained from the appellate authority. Therefore, the very existence of the petitioner society is suspended. Thus, this objection goes to the root of the matter and though normally I would test the impugned order on the basis of the reasons indicated in the order, in this case, the additional grounds taken by the State renders the society as non existing. Therefore, interference in favour of the petitioner is not called for.

5. Mr.Deshmukh, learned counsel further submitted in the alternative that the petitioner should be allowed to vote subject to the result of the appeal filed against the order of the District Deputy Registrar, Co-operative Societies, directing liquidation of the petitioner/society and the vote of the petitioner be kept in abeyance, to be counted only after the result of the appeal filed by the petitioner from the order dated 30/12/2015 of liquidation with the Divisional Joint Registrar, Co-operative Societies.

6. The alternative suggestion made by Mr.Deshmukh, learned counsel appearing for the petitioner is not acceptable for the reason that this would result in delay in announcing the victorious candidate in the elections held in the APMC, Tadkalas and

consequently result in delaying the constitution of the Managing Committee of the APMC, Tadkalas.

7. In the above view and in the peculiar facts of this case and in particular the stand taken by the State, the petition is not being entertained. However, it is clarified that though the impugned order would not be sustainable for the reasons indicated herein as it stands covered by the decision of this Court in Pimpla Lokhande (supra), the extra ordinary remedy is not being exercised at this stage as the petitioner is under liquidation. However, it would be open to the petitioner to challenge the election process under Rule 88 of the Rules after the election results are declared and on having obtained appropriate orders from the Appellate Authority in its appeal challenging the order of liquidation.

8. Petition is, therefore, dismissed.

(M.S.Sanklecha, J.)