

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

WRIT PETITION NO. 5816 OF 2016

1. Mhaske Raosaheb Dadarao
Age: 58 years, Occu.: Retd. Employee,
R/o Palwan, Tq. & Dist. Beed.
2. Babasaheb Govind Rasal
Age: 58 years, Occu.: Retd. Employee,
R/o Majarsumbha, Tq. & Dist. Beed.
3. Naikwade Dnyanoba Sopanrao
Age: 58 years, Occu.: Retired Employee,
R/o Sakhare Borgaon, Tq. & Dist. Beed.
4. Chandrakant Ramrao Shinde
Age: 58 years, Occu.: Rtd. Employee,
R/o Belapur, Tq. & Dist. Beed.
5. Anil Bhagwan Shinde
Age: 58 years, Occu.: Retd. Employee,
R/o Beed, Tq. & Dist. Beed.

..PETITIONERS

VERSUS

1. State of Maharashtra
Through: Secretary,
Milk and Fisheries Development Department,
Mantralaya, Mumbai-32.
2. The Joint Registrar,
Co-operative Societies (Milk),
Administrative Building, Worli Sea Face,
Mumbai.
3. Divisional Joint Registrar,
Co-operative Societies (Milk),
Aurangabad, Tq. & Dist. Aurangabad.

4. Beed Zilla Parishad Doodh Utpadak
Sangh Maryadit, Beed,
Barshi Road, Beed.
Through : Its Managing Director/Manager

5. Tanaji Ambadas Kadam,
Chairman,
Beed Zilla Parishad Doodh Utpadak
Sangh Maryadit, Beed,
Barshi Road, Beed.

..RESPONDENTS

....

Mr. C.V. Thombre, Advocate for petitioners.
Mrs. M.A. Deshpande, A.G.P. for Respondent Nos. 1 to 3.
Mr. K.J. Suryawanshi, Advocate for Respondent No.4.

....

**CORAM : ANOOP V. MOHTA &
SUNIL K. KOTWAL, JJ
DATED : 27th JUNE, 2017**

ORAL JUDGMENT : (Per: ANOOP V. MOHTA, J.)

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

2. Petitioners have challenged the resolution dated 07th April, 2016 passed by the Managing Committee of Respondent No.4, thereby relieving petitioners from service with effect from 30th April, 2016 by amending service rules declaring the age of retirement of sixty years to fifty-eight years. Prayer is also made to set aside the said order and to reinsist petitioners in service with continuity of service and consequential benefits.

3. Respondent No.4 – society is registered under the provisions of Maharashtra Co-operative Societies Act, 1960 (the “Act”) having its operation in Beed district. This society has adopted the Employer Service Rules approved by the District Deputy Registrar of Co-operative Societies. Power is with Respondent Nos. 2 and 3 to approve the by-laws of the society. Petitioners therefore admittedly governed by the provisions of Maharashtra Co-operative Societies Act (the “Act”), Rules and By-laws made thereunder.

4. A preliminary objection is raised by learned Counsel appearing for Respondent Nos. 4 and 5 about the maintainability of this writ petition.

5. The Hon'ble Supreme Court in the case reported as **(2017) 3 Mh.L.J. 365 /MANU/SC/0343/2017 (The Maharashtra State Co-operative Housing Finance Corporation Ltd. Vs. Prabhakar Sitaram Bhadange)** while dealing with the provisions of the Act, has specifically observed with regard to the issue of services of employees of the co-operative societies. Such service dispute between the societies and its employees is not covered by the “disputes” so contemplated under Section 91 of the Act. It is observed that service disputes raised by respondent is not covered within the meaning of Section 91 of the Act and therefore, Co-operative Court does not have jurisdiction to

entertain the claim filed by respondent against the “management”/ “society”. It is ultimately observed as under:

“18. As a result, this appeal is allowed, the order of the High Court is set aside and the Division Bench judgment, on which reliance is placed by the High Court in the impugned judgment, is overruled. As a consequence, it is held that the petition filed by the Respondent before the Cooperative Court is not maintainable. It would, however, be open to the Respondent to file a civil suit. Needless to mention, in such a civil suit filed by the Respondent, he would be at liberty to file application Under Section 14 of the Limitation Act, 1963 in order to save the limitation. No costs.”

4. After considering the rival contentions, in view of the decision of Supreme Court and as an alternate remedy is available to the petitioner to redress the grievance so raised in the present petition, we are not inclined to entertain present petition. However, liberty is granted to petitioners to approach the forum in accordance with law.

5. Considering the fact and on the basis of preliminary objections, we are disposing of the present petition. Petitioners would be at liberty to file application under Section 14 of the Limitation Act, 1963, in order to save limitation, if any. The concerned officer to consider above background while deciding such application as we have not discussed and/or touched the merits

of the matter, so raised in the present petition.

O R D E R

- (i) Petition is disposed of with liberty. No costs.
- (ii) Rule is disposed of accordingly.

SSD (SUNIL K. KOTWAL, J.) (ANOOP V. MOHTA, J.)