

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1436 OF 2017

Dayanand W. Naik & Anr. Petitioners
versus
State of Maharashtra & Ors. ... Respondents

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- Mr.C.G. Patil, Advocate for the Petitioners.
- Mr.A.S. Vagyani, GP a/w Mrs. R.A. Salunkhe, AGP, for the Respondent/State.
- Mr.Rajesh Jadhav, Assistant Registrar, a/w Mr.P.T. Mandhave, Special Auditor present.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 21st NOVEMBER, 2017.**

P.C. :

1. The above Appeal has been filed for implementation of the directions as contained in the orders dated 22/06/2016 and 28/09/2016. An Affidavit-in-Reply has been filed to the above Petition by one Prakash Patil, Auditor Co-operation Societies (Urban Bank). In paragraph No.6 of the said affidavit it has been stated that re-audit beyond period of 5 years is not possible to be carried out in view of the circular dated 14/12/2015. In

paragraph No.4 of the said circular it is stated that having regard to section 88 of the Maharashtra Co-operative Societies Act (for short 'MCS Act') the re-audit beyond the period of 5 years is a factor to be taken into consideration. The learned Government Pleader Mr.Vagyani on instructions of Mr.Rajesh Jadhav, Assistant Registrar, states that the said circular dated 14/12/2015 is only clarificatory in nature and does not take away the mandate of section 81 of the MCS Act, wherein no such period for audit has been stipulated. The learned GP would submit that the period of 5 years is germane only for fixing of the liability u/s 88 of the MCS Act. The learned Government Pleader on instructions of Mr.Rajesh Jadhav, Assistant Registrar, therefore states that re-audit in terms of the orders dated 22/06/2016 and 28/09/2016 would be carried out. Statement accepted.

2. In so far as whether the action could be taken u/s 88 of the MCS Act for the period beyond the one stipulated in Section 88, we have not gone into the said issue and therefore do not express any opinion in respect of the same.

3. In the light of the statement made by the learned Government Pleader, the above Petition to stand disposed of. It is expected that the re-audit would be carried out expeditiously.
4. All the parties to act upon a copy of this order duly authenticated by the Court Sheristedar.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)