

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3855 OF 2017

Rajendra Ganpati Patil ... Petitioner
Vs.
The Karad Janata Sahakari Bank Ltd. and others... Respondents

Mr. Amit Sale i/b. Mr. Vaibhav R. Gaikwad for Petitioner.
Mr. Y. S. Jahagirdar, Senior Advocate a/w. Mr. S. S. Aradhya for Respondent No.1.
Mr. S. D. Rayrikar, AGP for Respondents No.2 and 3-State.

CORAM : R. G. KETKAR, J.
DATE : APRIL 27, 2017

P.C. :

Heard Mr. Sale, learned Counsel for petitioner, Mr. Jahagirdar, learned Senior Counsel for respondent No.1 and Mr. Rayrikar, learned AGP for respondents No.2 and 3-State at length.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 09.01.2017 passed by the Hon'ble Minister for Co-operation, Marketing and Textiles, Government of Maharashtra in Revision Application No.342 of 2016 filed by the respondent No.1 under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (for short 'Act'). By that order, the Hon'ble Minister partly allowed the Revision Application and set aside the order dated 25.01.2016 passed by the Additional Commissioner and Sub-Registrar, Co-operative Societies, Maharashtra State, Pune and remitted the matter before second respondent for deciding it afresh.

3. Rule. Learned Counsel for the respective respondents waive service. Having regard to the narrow controversy raised in this Petition as also at the request and by consent of the parties, Rule is made

returnable forthwith and the Petition is taken up for final hearing.

4. In support of this Petition, Mr. Sale submitted that the proceedings of the Annual General Meeting dated 03.09.2015 are vitiated to the extent of resolution No.9 pertaining to the expulsion of petitioner, for non-compliance of Rule 29 of the Maharashtra Co-operative Societies Rules, 1961 (for short 'Rules'). He submitted that notice was issued on 17.08.2015 to the petitioner calling upon him to remain present before the Annual General Meeting to be held on 03.09.2015. He submitted that this is contrary to Rule 29(1) of the Rules, which is held mandatory by the Division Benches of this Court in (i) ***Bhaskar Vs. Shri G. N. Co-op. Society, 1998 (3) Mh.L.J. 127*** and (ii) ***K.Z.S.D.U.S.M. Vs. State of Maharashtra, 2008 (2) Mh.L.J. 231***. He submitted that this Court has held that notice of the meeting contemplated by Rule 29 in the matter of expulsion of member referable to Section 35 of the Act has to be served on the member against whom the resolution is proposed to be passed at least one month prior to the date of the meeting. A meeting held earlier than period of one month from the date of service of notice is illegal. Any business transacted therein would be illegal and bad in law. He, therefore, submitted that the proceedings are liable to be dropped for non-compliance of mandatory provisions of Rule 29(1) of the Rules.

5. Mr. Jahagirdar fairly did not dispute the fact that Resolution No.9 in Annual General Meeting dated 03.09.2015 was not passed as per Rule 29(1) of the Rules. He submits that respondent No.1 will issue fresh notice in compliance of Rule 29(1) of the Rules.

6. In view thereof, the impugned order dated 09.01.2017 passed by the Hon'ble Minister is set aside. Resolution No.9 passed in AGM dated

03.09.2015 pertaining to expulsion of the petitioner is set aside reserving liberty to the respondent No.1 to take appropriate steps in accordance with Rule 29(1) of the Rules. All contentions of the parties in that regard are expressly kept open. Rule is made absolute with no order as to costs.

(R. G. KETKAR, J.)

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