

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5286 OF 2017

Gangaram Narayan Sonawane	...	Petitioner
V/s.		
The State of Maharashtra & Ors.	...	Respondents

Mr.Ketan Joshi i/b. ERGO Juris, Advocate for the Petitioner.
Mr.S.R.Nagolkar with Mr.Lendel Coutinho, Advocate for the
Respondent No.5.
Mr.S.B.Kalel, AGP for Respondents/State.

**CORAM : SHANTANU S. KEMKAR &
A. M. BADAR JJ.**

DATED : 2nd May 2017

P.C.

Not on board. Taken on Production Board.

Parties through their counsel.

2 Today when the petition came up for hearing, the learned counsel for the respondent No.5 submits that in view of the decision of the Supreme Court in the case of ***Co-operative Central Bank Ltd. & Ors. v. Additional Industrial Tribunal, Andhra Pradesh, Hyderabad & Ors. Etc.*** AIR 1970 SC 245, the petition has no merit and the same is liable to be disposed of.

3 We find that in this case the petitioner has challenged
the orders dated 13/02/2015 and 07/01/2017 passed by the

Divisional Joint Registrar, Co-operative Societies, Pune, the orders dated 06/03/2013 and 18/11/2016 passed by the District Sub Registrar, Co-operative Societies, Pune and orders dated 28/01/2016 and 31/05/2016 passed by the Minister, Co-operation, Mantralaya, Mumbai.

4 The Supreme Court in paragraph 10 of the judgment in the matter of ***Co-operative Central Bank Ltd. & Ors.*** (supra) has observed thus :

“10. We are unable to accept the submission that the bye-laws of a co-operative society framed in pursuance of the provisions of the Act can be held to be law or to have the force of law. It has no doubt been held that, if a statute gives power to a Government or other authority to make rules, the rules so framed have the force of statute and are to be deemed to be incorporated as a part of the statute. That principle, however, does not apply to bye-laws of the nature that a co- operative society is empowered by the Act to make. The bye-laws that are contemplated by the Act can be merely those which govern the internal management, business or administration of a society. They may be binding between the persons affected by them, but they do not have the force of a statute. In respect of bye-laws laying down conditions of service of the employees of a society, the bye-laws would be binding between the society and the employees just in the same manner as conditions of service laid down by contract between the parties. In fact, after such bye-laws laying down the conditions of service are made and any person enters the employment of a society, those conditions of service will have to be treated as conditions

accepted by the employee when entering the service and will thus bind him like conditions of service specifically forming part of the contract of service. The bye-laws that can be framed by a society under the Act are similar in nature to the Articles of Association of a Company incorporated under the Companies Act and such Articles of Association have never been held to have the force of law. In a number of cases, conditions of service for industries are laid down by Standing Orders certified under the Industrial Employment (Standing Orders) Act, 1946, and it has been held that, though such Standing Orders are binding between the employers and the employees of the industry governed by those Standing Orders, they do not have such force of law as to be binding on industrial Tribunals adjudicating an industrial dispute. The jurisdiction which is granted to Industrial Tribunals by the Industrial Disputes Act is not the jurisdiction of merely administering the existing laws and enforcing existing contracts. Industrial Tribunals have the right even to vary contracts of service between the employer and the employees which jurisdiction can never be exercised by a civil court or a Registrar acting under the Co-operative Societies Act, so that the circumstance that, in granting relief on issue No. 1, the Tribunal will have to vary the special bye-laws framed by the Cooperative Bank does not lead to the inference that the Tribunal would be incompetent to grant the reliefs sought in this reference. In fact, the reliefs could only be granted by the Industrial Tribunal and could not fall within the scope of the powers of the Registrar dealing with a dispute under Section 61 of the Act."

5 The learned counsel for the respondent No.5 further submits that in view of Section 13 of the Maharashtra Co-operative Societies Act, 1960 ("M.C.S.Act" for the sake of brevity),

the amendment of by-laws of society made on the basis of resolution passed in the Annual General Body Meeting of the Society have to be certified by the Registrar and that is what has been done in the present case and as such, in view of the law laid down by the Division Bench of this Court at Nagpur in the matter of *Marotrao s/o. Nanaji Pachbhai v. State of Maharashtra & Ors.* 2015(5) Mh.L.J. 878 no case is made out for interference in this petition.

6 In view of the aforesaid legal position, the learned counsel for the petitioner fairly submits that the impugned orders cannot be said to be illegal.

7 Accordingly, we dismiss the petition.

(A. M. BADAR J.)

(SHANTANU S. KEMKAR J.)