

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

**WRIT PETITION NO.9500 OF 2017
WITH
CIVIL APPLICATION NO.2004 OF 2017
IN
WRIT PETITION NO.9500 OF 2017**

Shri Arjan R. Bhatia & Ors.

... Petitioners

Vs

The State of Maharashtra & Ors.

... Respondents

...

Mr. S. G. Kurup for the Petitioners/Applicants.

Mr. Johnson John for the Respondent No.5.

Ms. Jyoti Jadhav, AGP for the State.

CORAM : M. S. SONAK, J.
DATE :28 SEPTEMBER, 2017

P.C. :

1. Rule.
2. Rule is made returnable forthwith with the request of the learned counsel for the parties.
3. The challenge in this petition is to the order dated 13.07.2017 made by the Minster (Co-operation), acting as Revisional Authority under Section 154 of the Maharashtra Co-operative Societies Act, 1960 (MCS Act).

4. In this case, the Deputy Registrar of Co-operative Societies, had made an order Under Section 73 (1), 75 (5) and 78 (A) of the MCS Act on 23.02.2016, disqualifying certain members of the Managing Committee of the Respondent No. 5 Society.

5. The respondent No. 5 Society, instituted a Revision Application No. 145/2016 before the Divisional Joint Registrar by invoking the provisions of Section 154 of the MCS Act, since, in this case, no appeal was found to be maintainable. The Divisional Joint Registrar, by order dated 22.11.2016, dismissed the Revision Application instituted by Respondent No.5.

6. The respondent No. 5, thereafter, instituted yet another Revision Application No.1155/2016 before the Minister (Co-operation), in which, the impugned order dated 13.07.2017 came to be made.

7. The full Bench of this Court in the case of **Smt. Shireen Sami Gadiali & Anr. V/s. Spenta Co-op. Hsg. Soc. Ltd. & Ors.** decided on 21st April 2011, has clearly held that the power of revision under Section 154 (1) of the MCS Act can be exercised only once and not twice over. In paragraph 10, this is what the full bench of this Court has observed:-

10. It is further to be seen that the provisions of Section 154 before they were amended in the year 1974 were

considered by the Supreme Court in its judgment in the case of Everest apartments Co-operative Housing Society Ltd. V/s. State of Maharashtra and ors. AIR 1966 SC 1449. We have quoted above the provisions of sub-section 1 of Section 154 after they were amended in the year 1974. Perusal of those provisions shows that no revision lies against an order referred to in sub-section 9 of Section 149. That provision was present in Section 154 even before its amendment in 1974. The Supreme Court in its judgment in Everest Apartment's case has considered the purpose why that provision has been made in the Section 154. In paragraph 5 the Supreme Court observed "This power can be exercised in all cases except in a case in which a similar power has already been exercised by the Tribunal under S.149(9) of the Act. The exception was considered necessary because the legality or the propriety of an order having once been considered, it would be an act of supererogation to consider the matter twice." The Supreme Court, thus, has clearly held that once legality or the propriety of an order has been examined by an authority possessing revisional jurisdiction, there is no question of another authority in exercise of the same revisional jurisdiction again considering the legality and propriety of the decision in revision. In other words, a decision taken in revisional jurisdiction cannot be subjected to a further revision unless there is a specific provision made in that regard. In our opinion, therefore, in view of the clear scheme of Section 152 and Section 154 and the observations of the Supreme Court referred to above, the position is absolutely clear that an order passed in exercise of the revisional jurisdiction under Section 154 cannot be subjected to scrutiny in exercise of revisional jurisdiction again under the provision of Section 154 of the Act. The question is, therefore, answered accordingly.

8. Applying the law laid down by the full Bench of this Court, the impugned order dated 13.07.2017 made by the Minster (Co-operation), purporting to exercise Revisional Jurisdiction for the second time will have to be set aside as being in excess of jurisdiction vested in him. Impugned order is accordingly set aside on this ground alone, without adverting to the merits of the matter. Rule is made absolute in terms of prayer clause (a) of this petition.

9. However, it is clarified that the setting aside of the impugned order dated 13.07.2017, will not preclude the respondent No. 5 to take out appropriate proceedings to challenge the Divisional Joint Registrar's order dated 22.11.2016, before appropriate forum.

10. In view of the disposal of the Writ Petition No.9500 of 2017, Civil Application No.2004 of 2017 does not survive and the same is disposed of.

(M. S. SONAK, J.)