

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

WRIT PETITION NO. 4476 OF 1995

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1. Gadhi Agriculture Horticulture and purchase and sale Cooperative Society Ltd., Gadhi, Through it's Chairman.
2. Sirasdevi Agriculture Horticulture and Sale and Purchase Cooperative Society Ltd., Sirasdevi, Through its Chairman.
3. Savaleshwar Agriculture Horticulture Sale and Purchase Cooperative Society Ltd., Sawaleshwar, Through it's Chairman.
4. Talwadi Agriculture Horticulture Sale and Purchase Cooperative Society Ltd., Telwada, Through its Chairman.
5. Lukamasala Agriculture Horticulture and Sale and Purchase Cooperative Society Ltd. through its Chairman.
6. Dhondrai Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Dhondrai through its Chairman.
7. Malegaon Agriculture Horticulture and Sale and Purchase Cooperative Society Ltd. Malegaon Kd. Through its Chairman.

8. Bagpimpalgaon Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Bag-Pimpalgaon through its Chairman.
9. Wadgaon Dhok Agriculture Horticulture Sale and Purchase cooperative Society Ltd. Wadgaon-Dhok, through its Chairman.
10. Agaranandur Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Agarnandur, through its Chief Promoter/Chairman.
11. Raheri Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Raheri, through its Chairman.
12. Malegaon (Bdk) Agriculture Horticulture and Sale and Purchase Cooperative Society Ltd. (Malegaon khd) through its Chairman.
13. Khalegaon Agriculture Horticulture and Sale and Purchase Cooperative Society Ltd. Khalegaon, through its Chairman.
14. Daithana Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Daithan, through its Chairman.
15. Sailu Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Sailu, through its Chairman.

16. Rakashashbhavan Agriculture Horticulture Sale and Purchase Cooperative Society Ltd.
Rakashashbhavan, through its Chairman.
17. Chaklamba Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Chaklamba, through its Chairman.
18. Khandavi Agriculture Horticulture Sale and Purchase Society Ltd.
Khandvi through its Chairman.
19. Ranmala Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Ranmala through its Chairman.
20. Madalmohi Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Madalmohi, through its Chairman.
21. Hirapur Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Hirapur, through its Chairman.
22. Khamgaon Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Khamgaon, through its Chairman.
23. Padalsingi Agriculture Horticulture Sale and Purchase Cooperative Society Ltd. Padalsingi, through its Chairman. ...Petitioner....

VERSUS

1. Shrinath (Falotpadan)
Horticulture and Fruit Production
Cooperative Society Ltd.,
Malegaon (Khd. Through its
Chief Promotor Shri Bhagwan
Namdeo Kharat.)
2. Shri. Mahatma Phule Horticulture
and Fruit Production Cooperative
Society Ltd. Tandala, through
it's Chief Promoter Shri. Pralhad
Sahebrao Patil
3. Shri. Dhireshwar Horticulture
and Fruit Production Cooperative
Society Ltd. Guntegaon through
its Chief Promoter Shri Nivratti
Gangaram Gorade.
4. Shetkari Agriculture Horticulture
Cooperative Society Ltd.
Gulaj, through its Chief Promoter
Shri Nakul Shrihari Gaware.
5. Someshwar Agriculture Horticulture
Cooperative Society Ltd.
Sawaleshwar, through its Chief
Promoter, Advocate Shri Babarao Ude.
6. Laxmi Horticulture and Fruit
Bagayat Sahakari Society Ltd.
Talwat Borgaon, through its
Chief Promoter Shri Dinkar Ambadas
Gholap.
7. Ukadeshwar Agriculture Horticulture
Cooperative Society Ltd.
Ukkadpimpri, through it's

Chief Promoter, Chhaburao Vithalrao Sanap.

8. Jaibhavani Agriculture Horticulture and Fruit Production Cooperative Society Ltd. Daithana, through its Chief Promoter, Shri Sambhaji Appasaheb Pandit.
9. Agriculture Horticulture Fruit Bagayat Cooperative Society Ltd. Shekta, through its Chief Promoter Shri Bhagwat Baburao Mahanor.
10. The Assistant Registrar, Cooperative Societies, Georai, All: Taluka Georai, District Beed.
11. The Beed District Central Cooperative Bank Ltd. Beed, Dist. Beed, through its Manager.
12. The Maharashtra State Cooperative Marketing Federation Ltd. Bombay through its Managing Director.
13. The Divisional Joint Registrar, Co-operative Societies, Aurangabad, Division Aurangabad. Respondents.

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Advocate for Petitioner : Shri N.B Khandare.

AGP for Respondents: Mr A V Deshmukh

Advocate for Respondents 1-9 : Mr R T Nagargoje

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CORAM : V.K. JADHAV, J.**Dated: January 12, 2018**

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ORAL JUDGMENT :-

1. By this writ petition, the petitioners are challenging the order passed by the Divisional Joint Registrar, Cooperative Societies, Aurangabad dated 25.11.1994 in appeal Nos.210/1990 to 218/1995.

2. Brief facts, giving rise to the present writ petition are as under :-

a] The petitioners are the registered Cooperative Societies and registration was granted by the Assistant Registrar Cooperative Societies, Georai under section 9 of the Maharashtra Cooperative Societies Act. After grant of registration, registration certificates also came to be issued in favour of the petitioner societies and as such, they are the cooperative societies within the meaning of the provisions of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as the Act of 1960 for short).

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3. Respondents no. 1 to 9 are the cooperative societies whose proposals for registration was pending at the time before the Assistant Registrar Cooperative Societies Georai. Respondent nos. 1 to 9 had filed the appeals as mentioned under section 152 of the Act of 1960 against the order of registration of the societies passed in favour of the petitioners by respondent no.1. They have challenged the registration certificates dated 30.6.1990 issued in favour of the petitioners as Agriculture Horticulture and Purchase and Sale Cooperative Society, Ltd., It has been contended that some of the respondents had filed registration proposals for their societies on 20.6.1990, some of them filed proposal on 30.6.1990 etc., however, present petitioners have filed their proposals on 26.6.1990. All the proposals were scrutinized on the same date and even the permission for opening of the bank account was given on the same date. It has been also contended that all proposals were registered within four days i.e. 30.6.1990. Even registration fees was not paid as per rules or credited with the registration proposals. The

learned Divisional Joint Registrar Cooperative Societies Aurangabad after giving an opportunity of being heard to petitioners and respondents, allowed the said appeals and quashed and set aside the order dated 30.6.1990 regarding registration of the petitioners/Societies passed by respondent no.1 and registration was cancelled. Hence, this writ petition.

4. Learned counsel for the petitioners submits that, appeal itself is not maintainable under Section 152 of the Act of 1960. Learned counsel submits that, respondents/societies can ask for registration of their societies but they cannot ask for cancellation of the societies which are already registered. Learned counsel submits that, section 4 of the Act of 1960 provides as to which societies being registered and further section six prescribes conditions of such registration. In terms of the provisions of section 9 if the Registrar is satisfied that the proposed society has complied with the provisions of the Act and the Rules, he shall within two months from the date of the receipt of the application

register the society and its by-laws. Learned counsel submits that, as conditions prescribed under section 6 of the Act of 1960 are required to be fulfilled and in case, if, those conditions are not fulfilled, then only registration can be refused in terms of the provisions of section 9 of the Act of 1960. Learned counsel submits that, there are no restrictions to register the number of the societies on a particular date and if the conditions are complied with as discussed above, registrar is bound to issue registration certificate within two months. Learned counsel submits that, respondents/societies have preferred the aforesaid appeals only on the ground that their proposals seeking registration are kept pending and the proposals of the petitioners/societies are accepted and accordingly registration process has been completed. Learned counsel submits that, even the appellate authority without considering the maintainability of the appeal and without assigning any reason allowed the appeals and cancelled the registration. Learned counsel submits that, under the interim orders passed by this Court, the petitioner

societies are functioning from the date of their registration continuously without any interruption.

5. Learned counsel for respondents submits that, in anticipating the ensuing elections, the petitioner societies came to be formulated in haste and accordingly the proposals were submitted to the Registrar for registration. Learned counsel submits that, accordingly though proposals were submitted on 26.6.1990 all the proposals were scrutinized on the same date and even permission of opening the bank account was also given on the same date. Even, the proposals were submitted on 26.6.1990, the same were registered within four days therefrom. Learned counsel submits that, even one circular came to be issued by the Director Marketing, M.S.Pune, dated 24.2.1998 wherein instructions were issued to the Departmental officers not to register any Fruit and Vegetable Sale and Purchase Society (Marketing Society) till the finalization of the registration Norms by the Director of Marketing, M.S. Pune. The Director of Marketing, Maharashtra State Pune by

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another circular dated 10.9.1990 same instructions were reiterated. In spite of these instructions from the Director Marketing, the Assistant Registrar Tq. Georai, District Beed has registered the petitioners/society under the pressure of local M.L.A. The appellate authority i.e. Divisional Joint Registrar Aurangabad has, therefore, rightly interfered into the matter and allowed the appeal. No interference is required.

6. In terms of the provisions of section 4 of the Act of 1960, a Society, which has as its objects the promotion of the economic interests or general welfare of its members, or of the public, in accordance with cooperative principles, or a society established with the object of facilitating the operations of any such society, may be registered under this Act. However, in terms of the proviso to sub section (4) no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on the development of the cooperative movement, or the registration of which may be contrary to the policy

directives which the State Government may, from time to time, issue. Further, no appeal can be preferred under the provisions of section 152 of the Act of 1960 if the registration has been granted and only appeal can be preferred in case, if other societies in the same field has been adversely affected. In the instant case, even the appeal as it preferred before the Divisional joint Registrar, Co-operative Societies, Aurangabad are not maintainable.

7. It further appears that, the respondents/Societies have preferred those appeals only on the ground that registration has been granted to the petitioners/societies under political pressure, without following due procedure. It further appears from the impugned order that, the Divisional joint Registrar has observed that registration as given to the petitioners agriculture horticulture and Purchase and Sale Cooperative Society, Ltd. is without completing the formalities with some malafide intention. The Divisional Joint Registrar has failed to pinpoint those formalities to

be completed and even there is no discussion as to what was the malafide intention on the part of the petitioner/societies for submitting their proposal for registration of the society. Even, the Divisional Joint Registrar Cooperative Societies, Aurangabad has not discussed the circulars as referred by the counsel appearing for the respondents.

8. It further appears that under interim relief granted by this Court dated 28.2.1996, the petitioner-societies are functioning since then. There is no point in disturbing this position since there is nothing on record to point out the non-compliance of the procedural formalities. In terms of the provisions of Section 4 and Section 6, the Registrar has considered the proposals submitted by the petitioners-societies and accordingly granted the registration. In view of the above discussion, I proceed to pass the following order.

O R D E R

1. Writ Petition is hereby allowed in terms of prayer clause '**B**'. No costs.

2. Rule is made absolute in above terms.
3. Writ Petition accordingly disposed of.

(V.K. JADHAV, J.)

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