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

WRIT PETITION NO.5615 OF 2017

Laxman s/o Narsaya Bura,
Age: 61 years, Occ: Retired,
R/o. Bagade Mala, Balika Asharam Road,
Near Dr. Sanjay Pund Hospital, Ahmednagar,
District Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through Principle of Secretary,
Co-operative Department, Mantralaya,
Mumbai
2. The Joint Registrar Co-operative,
Co-operative Societies,
3rd Floor, Gruhanirman Bhavan,
Gadkari Chowk, Old Agra Road,
Nashik
3. The District Deputy Registrar,
Co-operative Societies,
3rd Floor,
Ahmednagar District Central Co-operative
Bank Ltd., Station Road,
Ahmednagar

..RESPONDENTS

Mr N. B. Narwade, Advocate for petitioner;
Mr S. S. Dande, A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
MANISH PITALE, JJ.**

DATE : 21st August, 2018

ORAL ORDER:

Heard Mr Narwade, learned Counsel for the petitioner at length.

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2. The petitioner is before this Court with a limited grievance, namely, there were two orders passed by the two authorities i.e. District Deputy Registrar, Co-operative Societies, Ahmednagar and the Divisional Joint Registrar, Co-operative Societies, Nashik.

3. Mr Narwade, learned Counsel for the petitioner, by inviting our attention to the document placed on record at Exh.'C' submits that the petitioner being a vigilant citizen and being a retired employee of Co-operative Department was interested to see that the affairs of the Co-operative Societies are run in an appropriate manner. As the petitioner raised the grievance against one Mr A. A. Shaikh, who was appointed as an administrator and liquidator for one society, namely, Gajanan Sahakari Gruha Nirman Sanstha Ltd., Mukund Nagar, District Ahmednagar, the District Deputy Registrar, Co-operative Societies, considering the grievance raised by the petitioner thought it fit to appoint one Mr B. V. Dhavare as a Special Auditor, Class-II, (Marketing), Co-operative Societies, Ahmednagar, by exercising the powers under Section 81 (3) of the Maharashtra Co-operative Societies Act, 1960. Mr Dhavare was appointed as a Special Auditor to conduct test audit and he was called upon to submit self explanatory report within a stipulated period.

4. Mr Narwade, learned Counsel for the petitioner vehemently submitted that the very officer i.e. the District Deputy Registrar,

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Co-operative Societies, Ahmednagar passed order dated 31st March, 2017 and thereby a change is effected in the officer. By inviting our attention to the order dated 31st March, 2017, learned Counsel for the petitioner submitted that the District Deputy Registrar, Co-operative Societies appointed one Mr B. S. Pagare as a Special Auditor to conduct the test report in place of Mr R. N. Aher. It was the submission of learned Counsel for the petitioner that this appointment was in contrast to the communication dated 14th March, 2017, issued by the Divisional Joint Registrar, Co-operative Societies, Nashik. He then submits that as per the said communication, Mr Dhavare had initially worked for test audit report and the change of the officer was only to kill the time. He then submits that the petitioner made representation to the Divisional Joint Registrar on 23rd February, 2017. Thus, the submission of learned Counsel for the petitioner is that the sudden change effected in the officer was with some oblique motive. Thus, the petitioner prays for quashing and setting aside the order dated 31st March, 2017.

5. Learned A.G.P. opposed the petition by relying on the affidavit-in-reply.

6. On considering the rival submissions referred above and upon perusal of the material placed on record, we are of the opinion that the petition is thoroughly meritless. Though the petitioner submitted that the change in the

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officer is not for justified reasons, we are unable to accept his submission.

7. The documents placed on record show that on 27th October, 2016, the District Deputy Registrar, Co-operative Societies, Ahmednagar passed order thereby appointing Mr Dhavare as a Special Auditor and immediately on 9th February, 2017, a communication is issued to the Divisional Joint Registrar, Co-operative Societies, Nashik. The Divisional Joint Registrar is apprised of the fact that there was stipulation of time to conduct the test audit report and Mr Dhavare was appointed as a Special Auditor. Though it was expected of the officer to complete the exercise of test audit report within stipulated period, still he was unable to undertake exercise even after lapse of time of four months. The communication then refers to the factual aspects, namely, the concerned officer Mr Dhavare was over-burdened. It is also stated that Mr Dhavare was not having adequate staff at his disposal to undertake an exercise within a stipulated period. Though learned Counsel for the petitioner vehemently submitted that the petitioner submitted representation to the Divisional Joint Registrar raising certain grounds, on perusal of this communication, what emerges is, a vague statement in the communication that Mr Dhavare informed Mr Shaikh that it is primary opinion that Mr Shaikh is guilty and Mr Shaikh, in view of that made an attempt to change Mr Dhavare. Except this statement, there is nothing on record to support the submission, as such, we observe that this statement is merely an allegation without there being any supporting material.

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8. Considering other documents placed on record, it reveals that the District Deputy Registrar, Co-operative Societies, in his detailed order dated 31st March, 2017, referred to the various aspects. The communication refers to the gist of the grievance raised by the petitioner against Mr Shaikh. Then it refers to an enquiry conducted in the matter. Then it refers to certain communication between offices, namely, Deputy Registrar, Co-operative Societies and the Divisional Joint Registrar, Co-operative Societies. Then it refers to the earlier orders passed by the officer concerned appointing Mr Dhavare. It is useful for our purposes to the specific observation, which is in reference to the documents at Sr. Nos.12 and 13, which are in the opening part of the order dated 31st March, 2017. The order of the Divisional Joint Registrar then refers to these documents i.e. at Sr.Nos.12 and 13. The document at Sr.No.12 is the order appointing one Mr R. N. Ahire as a Special Auditor and the document at Sr.No.13 is the communication forwarded by Mr Dhavare himself stating that he is not having adequate staff at his disposal and he is overburdened. Mr Dhavare himself made a request to relieve him from the assignment of the Special Auditor of the said society, namely, Gajanan Sahakari Gruha Nirman Sanstha Ltd., Mukund Nagar, District Ahmednagar.

9. It would be relevant and useful for our purposes to refer to the communication which is referred to at Sr.No.16 and the reference is made in the order and as per the said communication, the guidance of office of

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Divisional Joint Registrar, Co-operative Societies, Nashik was sought for. The District Deputy Registrar also requested to forward some names of the officers, who are from the outside Ahmednagar District and the communication referred at Sr.No.17 refers to the name forwarded of Mr Pagare, Special Auditor.

10. Taking into consideration all these aspects, the District Deputy Registrar passed order dated 31st March, 2017, thereby effecting the change in the officer, instead of Mr Dhavare, he appointed Mr Pagare as a Special Auditor, Class-II (Marketing), Co-operative Societies, Dhule. Mr Pagare was requested to submit his explanatory report within a stipulated period of 30 days.

11. All above referred material and the sequence of events clearly show that the District Deputy Registrar only wanted to see that the exercise of test audit report be completed as expeditiously as possible and considering the fact that Mr Dhavare, who was earlier appointed was overburdened and he himself made a request to relieve him from the assignment of an enquiry, in the fitness of things, the District Deputy Registrar appointed officer who is from outside the District i.e. from Dhule District.

12. Considering all these facts, we see no reason to entertain the petition. We are of the opinion that the order impugned in the petition neither suffers from any illegality nor from any mala fides.

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13. We further make it clear that the petitioner can not choose a person of his choice and direct the authorities to appoint that person. It is certainly for those competent authorities to select a proper person and appoint him to assign the duties.

14. The petition, thus, thoroughly meritless and deserves to be dismissed. Accordingly, with the above referred observations, we dismiss the petition.

(MANISH PITALE, J.)

(PRASANNA B. VARALE, J.)

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