

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 8359 OF 2017

AHMEDNAGAR TALUKA SAHAKARI DUDH VYAVSAIEK VA PRAKRIYA
SANGH THROUGH ITS CHAIRMAN

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Thigale Girish K. (Naik)

AGP for Respondents: Mr. S.P. Tiwari

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CORAM : V. K. JADHAV, J.
DATED : 7th FEBRUARY, 2018

PER COURT:-

1. By consent of the parties, heard finally at admission stage.
2. Being aggrieved by the order dated 31.5.2017 passed by the Divisional Deputy Registrar, Co-operative Societies (Diary), Nashik, (respondent No.2 herein) thereby passing interim order of winding up of the activities of the petitioner Sangh under Section 102 sub-clause (1) (c) (2) of the Maharashtra Co-operative Societies Act 1960, the petitioner Sangh, through its Chairman, preferred revision No. 4 of 2017 before the Joint Registrar, Co-operative Societies (Dairy) Mumbai. However, the said authority by order dated 28/29.6.2017 has rejected the said revision on the ground that it is premature one. Hence, this writ petition.

3. Learned counsel for the petitioner submits that issue raised in this writ petition is covered by the two judgments of this court i.e. (i) in writ petition No. 2811 of 2015 decided on 01.07.2016 (Coram: A.S. Chandurkar, J.) and (ii) *Chandrapur Zilla Sahakari Krushi and Gramin Bahuudeshiya Development Bank Ltd. vs. State of Maharashtra and others*, reported in 2004 (1) Mh.L.J. 232. Learned counsel submits that in writ petition No. 2811 of 2015, in similar set of facts, by referring the judgment of Division Bench of this Court in the case of ***Chandrapur Zilla Sahakari Krushi and Gramin Bahuudeshiya Development Bank Ltd. vs. State of Maharashtra and others, (supra)***, this Court held that passing of such interim order without hearing the society in question amounts to breach of the principles of natural justice and thus, quashed and set aside the impugned order on the ground that society was not heard before passing the order.

4. I have also heard the learned A.G.P. for the respondents.

5. In the case of ***Chandrapur Zilla Sahakari Krushi and Gramin Bahuudeshiya Development Bank Ltd. vs. State of Maharashtra and others (supra)***, the Division Bench of this court in identical facts considered the action taken by the Registrar *suo moto* to wind up the society by the interim order and observed that

principles of natural justice cannot be dispensed with and the Registrar is duty bound to grant hearing to concerned society. In the instant case, respondent No.2 Divisional Deputy Registrar in the same interim order directed that revival committee should submit the explanation within a period of one month and if the said explanation is found unsatisfactory further action will be taken.

6. In view of above and in view of ratio laid down by the Division Bench of this court and observations made by this court (Coram: A.S. Chandurkar, J.) in the aforesaid writ petition, I proceed to pass the following order:-

O R D E R

- I. Writ petition is hereby partly allowed. No costs.
- II. The impugned order dated 31.5.2017 passed by respondent No.2 and the order dated 28/29.6.2017 passed by the respondent No. 1 are hereby quashed and set aside. However, it is clarified that in case of any contingency arises, it would be open for the authority to take action in accordance with law.
- III. Writ petition is accordingly disposed of.

(V. K. JADHAV, J.)