

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

**CIVIL APPLICATION NO. 12866 OF 2018
IN WP/8357/2018**

**MAJEED PASHA SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Applicant : Shri Saeed S. Shaikh.
AGP for the Respondents/ State : Shri S.R.Yadav.
Advocate for Respondent 4 : Shri S.V.Mundhe.
Advocate for Respondents 6 and 7 : Shri A.V.Rakh.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 19th October, 2018

Per Court:

1 This is yet another case wherein, the Applicant/ Petitioner prays for recalling of the order of this Court by which, the writ petition has been dismissed for non removal of office objections.

2 This civil application is filed within time.

3 For the reasons stated in the Civil Application, the same is allowed and the writ petition is restored to the stage at which it was dismissed, on the following conditions :-

- (a) The Applicant/ Petitioner shall deposit an amount of Rs.201/- (Rupees Two Hundred One) as donation for the Ghati Hospital, Aurangabad (Government Medical College and

Hospital, Aurangabad), to be deposited with the Medical Officer, High Court Dispensary, Aurangabad, either in cash or by Demand Draft, to be drawn in the name of "Dean, Government Medical College and Hospital Dengi Samiti, Aurangabad" and shall produce a receipt of such deposit before the Registry of this Court on or before 01.11.2018.

- (b) The Applicant/ Petitioner shall simultaneously remove all office objections in the writ petition.
- (c) By consent of the parties, the writ petition is restored and taken up for hearing, forthwith.

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

WRIT PETITION NO.8357 OF 2018

MAJEED PASHA SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

WITH
CIVIL APPLICATION NO.12867 OF 2018
IN
WRIT PETITION NO.8357 OF 2018

MAHADEVAPPA PHADKARI COOPERATIVE SOCIETY
VERSUS
MAJEED PASHA SHAIKH.

...

Advocate for the Petitioner : Shri Saeed S. Shaikh.
AGP for the Respondents/ State : Shri S.R.Yadav.
Advocate for Respondent 4 in WP and Applicant in CA 12867/2018 : Shri
S.V.Mundhe.
Advocate for Respondents 6 and 7 : Shri A.V.Rakh.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 19th October, 2018

Per Court:

1 Today, this writ petition is restored in view of the order
passed in Civil Application No.12866/2018.

2 By the consent of the parties, this Writ Petition itself is taken
up for hearing.

3 The learned Advocates for the Respondents and the learned AGP submit that the Petitioner has directly approached this Court for challenging the recovery certificate dated 02.04.2018 issued under Section 101 of the Maharashtra Cooperative Societies Act, 1960.

4 The learned Advocate for the Petitioner submits that as the Petitioner has already deposited Rs.3 lac in this Court, which is about 50% of the assessed amount, the pre-condition under sub-section (2A) of Section 154 of the Maharashtra Cooperative Societies Act, 1960 has been complied with. He, therefore, submits that if this Court is inclined to allow the Petitioner to avail of a statutory remedy, interim relief granted on 25.07.2018 may be continued till the disposal of the revision application as the amount of Rs.3 lac has been deposited.

5 I find that since the remedy under Section 154 is a statutory efficacious remedy, all the contentions of the Petitioner and the litigating sides can be considered by the revisional authority. There are instances when such Petitioners directly approach this Court in order to avoid deposits required under sub-section (2A) of Section 154. In the instant case, the Petitioner has already deposited Rs.3 lac.

6 Considering the above, this Writ Petition is disposed of with the following directions :-

- (a) The Petitioner shall prefer his revision under Section 154 of the Maharashtra Cooperative Societies Act, 1960 before the

revisional authority within four weeks from today.

- (b) The Revisional Authority shall endeavour to decide the said revision proceedings expeditiously and in any case, on or before 30.06.2019.
- (c) Ad-interim protection granted by this Court on 25.07.2018 shall continue till the disposal of the revision proceedings.
- (d) All contentions of the litigating sides including the contention of the Petitioner that his blank cheques are being used by the financial institution, are kept open to be considered by the revisional authority.
- (e) The time spent by the Petitioner in this Court from 12.07.2018 till the filing of the revision petition within four weeks from today, would be a good ground for condonation of delay.
- (f) The litigating sides shall be precluded from seeking unnecessary adjournments on trivial or unreasonable grounds.
- (g) The Registry of this Court would permit Respondent No.4 (Mahadevappa Phadkari Co-operative Society) through its Manager, to withdraw the amount deposited in this Court along with accrued interest and the said amount shall be considered as deposit in compliance of sub-section (2A) of

Section 154 of the Maharashtra Cooperative Societies Act, 1960 and would be adjusted as against the unpaid dues of the Petitioner, if any.

7 The pending civil application does not survive and stands disposed of.

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(RAVINDRA V. GHUGE, J.)