

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

WRIT PETITION NO.10878 OF 2017

1. Arun Madhavrao Patil)
Age: 50, Occ: Primary Teacher,)
R/o.At/Po. Savantpur Vasahat,)
Tal.Palus, District Sangli,)

2. Fatthu Madarso Nadaf)
Age.44, Occ: Primary Teacher,)
R/o.At/Po. Sonyal,)
Tal.Jath, District Sangli,)

3. Santosh Raghunath Jagtap)
Age.22, Occ: Primary Teacher,)
R/o.At/Po. Bamani,)
Tal.Khanapur, District Sangli,)

4. Rajesh Siddhanath Nikam)
Age.35, Occ: Primary Teacher,)
R/o.At/Po. Devekhindi,)
Tal.Khanapur, District Sangli,)

5. Avinash Ashok Dabhole)
Age.41, Occ: Primary Teacher,)
R/o.Shriram Nagar,)
Behind Bhairvanath Mangal Hall,)

Mayanee Road, Vita,)

Tal.Vita, District Sangli,)

.. Petitioners

Versus

1.The Hon'ble Minister for Co-operative)

Marketing State of Maharashtra)

Mantralaya, Mumbai.)

Through its Principal Secretary)

2.Sangli District Primary Teachers)

Co-operative Bank Limited, Sangli,)

Through its Chairman)

Shivaji Sahaji Pawar)

3. Chief Executive Officer)

4.Sangli District Primary Teachers)

Co-operative Bank Limited, Sangli,)

5.Additional Commissioner and)

Special Registrar Co-op. Society)

Maharashtra State, Pune.)

5. District Deputy Registrar)

Sangli, District- Sangli.)

6. Reserve Bank of India)

Central Office Building,)

Shahid Bhagat Singh Road,)

Fort, Mumbai)
Office Legal Department)
Reserve Bank of India)
5th Floor, Centre I, World Trade Centre)
Mumbai – 400 005.)

7. Reserve Bank of India)
Office 6, Sansand Marg,)
New Delhi, Delhi.)

5. Assistant Registrar)
Co-operative Societies)
H/W ward, Bhandari Bank Bldg.)
P.L.Kale Guruji Marg,)
Dadar (w), Mumbai – 28.)

.. Respondents

Mr.P.S. Dani, Senior Advocate i/by Mr.Umesh R. Mankapure for the
petitioners.
Mr.S.H.Kankal, AGP for the respondent nos. 1 & 5-State.
Mr.Kuldeep S. Patil for the respondent no.4.

CORAM : R.D. DHANUKA, J.
DATE : 1st August 2018

Judgment :

. By this petition filed under Article 227 of the Constitution of
India, the petitioners have impugned the order dated 12th July 2017
passed by the learend Minister for Co-operation Marketing, State of

Maharashtra thereby allowing the appeal filed by the respondent no.2 partly. Some of the relevant facts for the purpose of deciding this petition are as under :-

2. The petitioners are the members of the respondent no.2 Co.op. Society which is registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 (for short "the said MCS Act). The respondent no.2 society was established in the year 1951. The primary teachers in Sangli only could be the members of the respondent no.2 society. Area of operation of the respondent no.2 society was Sangli District.

3. On 4th September 2016, a General Body Meeting of the respondent no.2 society came to be held. It is the case of the petitioners that in the said meeting, issue of increase of area of operation was neither discussed nor debated and a resolution came to be passed. It is the case of the petitioners that the petitioners were under an impression that general body meeting was wound up literally in 2 minutes without discussion and thus a fresh general body meeting would be called. The petitioners however subsequently found that all the subjects on agenda were recorded to have been passed unanimously after debate.

4. It is the case of the petitioners that minutes of the general body meeting held on 4th September 2016 were prepared subsequently and fraudulently and various resolutions alleged to have been passed in the said meeting were recorded. A copy of the said resolution was forwarded by the respondent no.1 to the Additional Commissioner and Special Registrar, Co-operative Society, Maharashtra State, Pune for approval. The Additional Commissioner and Special Registrar, Co-operative Society, Maharashtra State, Pune however by an order dated 18th November 2016 rejected the amendment to the bye-laws of the respondent no.2 society.

5. The respondent no.2 thereafter filed an appeal before the learned Minister under Section 162 of the said MCS Act with the respondent no.1. The members who had raised objection with the respondent no.2 were not added as party-respondents.

6. On 12th July 2017, the respondent no.1 allowed the said appeal partly and allowed the amendment and bye-laws in part thereby extending the operation of the respondent no.2 to the District Solapur, Ratnagiri and Satara. Learned Minister however, refused to extend the operation of respondent no.2 in respect of Pune and Sindhudurg Districts.

7. Being aggrieved by the said order passed by the learned Minister, the petitioners preferred this writ petition under Article 227 of the Constitution of India.

8. Mr.Dani, learned senior counsel for the petitioners submits that there was no discussion on any agenda in the general body meeting held on 4th September 2016 and the said meeting was concluded within 2 minutes and thus there was no question of passing any resolution on 12 subjects within 2 minutes. He submits that only primary teachers who are working in primary school within Sangli District could be the members of the respondent no.2 society and thus the learned Minister could not have granted approval to the amendment to the bye-laws thereby extending the area of operation to three other Districts. He submits that the persons who are entitled to avail of loan facilities qua Sangli District only and thus the area of operation could not have been allowed to be expanded by the learned Minister.

9. It is submitted that the resolution alleged to have been passed by the respondent no.2 was with a view to enroll new members for supporting the management committee so as to get bulk votes in forthcoming elections. He submits that the members who are within the

limits of Sangli District will prejudicially suffer because of the amendment was permitted by the learned Minister.

10. It is submitted by the learned senior counsel that it was the mandatory condition in the bye-laws that if the area of operation was sought to be changed from Sangli District, permission of Reserve Bank of India was necessitated. No such permission however was obtained by the respondent no.2 from the Reserve Bank of India who has an overall supervision and control over all the banks of India has absolute authority to refuse and/or to set aside the order of the learned Minister.

11. Mr.Patil, learned counsel for the respondent no.4, on the other hand, submits that since the petitioners were not parties to the proceedings before the learned Minister, they have no locus to file this writ petition. He submits that in any event, the petitioners are not at all affected by the impugned order passed by the learned Minister on 12th July 2017. He submits that in the general body meeting of the respondent no.4 held on 4th September 2016, a decision was taken by majority for expansion of the area for conduction business by the respondent no.4 in adjoining Districts in the interest of the growth of business and providing services of the primary school teachers.

12. Learned counsel for the respondent no.4 invited my attention to the impugned order passed by the learned Minister on 12th July 2017 and would submit that by the said order, learned Minister has partly allowed the appeal filed by the respondent no.4 and has directed to allow the amendment of the bye-laws for extension of the area of operation only to the adjoining Districts of Solapur, Ratnagiri and Satara as per the directions and guidelines issued by the Reserve Bank of India (RBI) from time to time and has rejected the application for amendment in respect of two other Districts i.e. Pune and Sindhudurg.

13. It is submitted by the learned senior counsel that by a communication dated 17th November 2016, the RBI has directed the respondent no.4 to approach the Registrar, Co-operative Societies, Pune and Sindhudurg for their request in terms of master circular dated 1st July 2015 and further directed that the extending the operation of the respondent no.4 beyond adjoining districts Pune and Sindhudurg would be examined by the RBI.

14. It is submitted by the learned counsel that RBI thereafter by its letter dated 13th February 2017 has refused to accept the request of the respondent no.4 to extend the area of operation to the district beyond

adjoining districts i.e. Satara, Solapur and Ratnagiri. He submits that accordingly the learned Minister allowed the amendment to the bye-laws only for extension of area of operation to the adjoining districts of Satara and Ratnagiri in accordance with the directives issued by the RBI.

15. Learned counsel for the respondent no.4 submits that the respondent no.4 was required to take decision in the general body meeting to extend the area of operation of the respondent no.4 in view of the fact that the number of the members of the respondent no.4 from Satara District are reduced substantially in last several years. He submits that it is not in dispute that only teachers employed with primary school having government grants are eligible to be the members of the respondent no.4 branch. There are no fresh recruitments as primary teachers in government grantable schools for about 8 years. Large number of teachers from the primary school have retired and have ceased to be the members of the respondent no.4. He submits that the membership of the respondent no.4 was gradually reduced from 8236 members in 2000 to 6509 members in 2016.

16. In so far as the submission of the learned senior counsel for the petitioners that there was no discussion held in the meeting held on

4th September 2016 or that the minutes of the said meeting are fraudulent is concerned, it is submitted by the learned counsel for the respondent no.4 that the resolution was passed after discussion in the said meeting and in accordance with the agenda of the Annual General Body Meeting. None of the members have filed any dispute challenging the said resolution passed in the said Annual General Body Meeting under Section 91 of the said MCS Act and thus cannot dispute the authenticity and correctness of the minutes in this writ petition for the first time.

17. There is no dispute that the original area of operation of the respondent no.4 society was only restricted to Sangli. It is not in dispute that the amendment to the bye-laws could be made by passing a resolution in the General Body Meeting of the respondent no.4 society and such resolution would be subject to the permission from the respondent no.1 and the RBI. It is not in dispute that the resolution passed by the respondent no.4 in the General Body Meeting has not impugned by any of the members under Section 91 of the said MCS Act and thus the said resolution is binding on all the members of the respondent no.4 society. A copy of the said resolution was forwarded by the respondent no.4 to the respondent no.1 for approval. The respondent no.1 rejected

the said application for sanction for carrying out amendment to the bye-laws of the respondent no.4 society.

18. A perusal of the record indicates that the RBI vide its letter dated 17th November 2016 informed the respondent no.4 that the proposal of the respondent no.4 for extension of area of operation i.e. beyond the adjoining districts i.e. Pune and Sindhudurg will be examined by the RBI. The record further indicates that the RBI subsequently informed the respondent no.4 vide letter dated 13th February 2017 that the request of the respondent no.4 to extend the area of operation to the districts beyond the adjoining districts was rejected. The RBI by its letter dated 17th November 2016 approached the Registrar, Co-operative Societies, Pune and Sindhudurg for their request in terms of master circular dated 1st July 2015. Learned Minister has rightly allowed appeal filed by the respondent no.4 partly in conformity with the directives issued by the RBI refusing to extend the area of operation beyond the adjoining districts and restricted to the amendment only in respect of adjoining districts i.e. Satara, Solapur and Ratnagiri. I do not find any infirmity in the impugned order passed by the learned Minister allowing such amendment partly.

19. In so far as the submission of the learned senior counsel for the petitioners that there was no discussion in the General Body Meeting held on 4th September 2016 or that the minutes of the general body meeting prepared by the respondent no.4 were fabricated and does not reflect the true picture is concerned, it is not in dispute that none of the members have challenged the validity of the said resolution by filing a dispute under Section 91 of the MCS Act and thus the said resolution is binding on all the members. Learned Minister has considered this aspect and has rightly allowed the amendment to the bye-laws partly. I am thus not inclined to accept the submission of the learned senior counsel for the petitioners that the said resolution was illegal.

20. I am inclined to accept the submission of the learned counsel for the respondent no.4 that in view of the reduction of the membership substantially and in view of the fact that there is no fresh recruitment as primary teachers in government grantable schools for for last several years, membership of the respondent no.4 society has been reduced. In my view, the petitioners are not affected in any manner whatsoever by virtue of the amendment and by expanding the area of operation in respect of the three adjoining districts.

21. The findings rendered by the learned Minister being not perverse cannot be interfered with by this Court under Article 227 of the Constitution of India. Since this Court has heard the learned counsel for both the parties on merit of the order passed by the learned Minister, this Court has not gone into the issue of locus raised by the respondent no.4 before this Court. In my view, the writ petition is devoid of merit.

22. I therefore pass the following order :-

- (i) Writ petition is dismissed.
- (ii) There shall be no order as to costs.

R.D. DHANUKA, J.