

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11605 OF 2017

Avinash J. Mohite & Ors.

..... Petitioners

VERSUS

The State of Maharashtra & Ors.

..... Respondents

Mr.Y.S.Jahagirdar, Senior Advocate, i/b. Mr.A.B.Borkar for the Petitioners.

Mr.S.H.Kankal, A.G.P. for the State – Respondent no.1.

Mr.R.V.Govilkar, i/b. Mr.Amol A.Gatne for the Respondent no.2.

Mr.A.V.Anturkar, Senior Advocate, i/b. Mr.Tanaji Mhatugade for the Respondent no.4.

CORAM : R.D. DHANUKA, J.

DATE : 7th FEBRUARY, 2018

P.C.

By consent of parties, following order is passed :-

2. Leave to amend is granted to implead Krishna Sahakari Sakhar Karkhana as respondent no.4. Amendment to be carried out forthwith. Re-verification is dispensed with.

3. Impugned order dated 3rd October,2017 passed by the respondent no.1 in Revision Application No.259 of 2017 is set aside.

4. Report submitted by the respondent no.2 on 1st October,2016 to the Registrar is set aside.

5. The petitioners would be at liberty to apply for inspection of the documents referred to and relied upon by the respondent no.4 in the

enquiry in question. Upon payment of cost of Rs.30,000/- by the petitioners to the respondent no.4 towards photocopy charges of the documents, the respondent no.4 shall furnish photocopies of those documents to the petitioners within one week from the date of the petitioners pointing out such documents to the respondent no.4, copies whereof are sought by the petitioners.

6. The petitioners would be at liberty to file reply and to place reliance upon the documents in support of their case before the enquiry officer which shall be filed within four weeks from the date of getting photocopies of the documents from the respondent no.4.

7. The respondent no.3 is directed to appoint another enquiry officer in place of respondent no.2 who has appeared before this Court through a counsel of this Court within one week from today. It is made clear that no allegations of bias or any other aspirations are cast on the integrity or otherwise of the respondent no.2.

8. Enquiry Officer shall hear all the petitioners as well as other parties against whom such enquiry is sought to be conducted and comply with the principles of natural justice. A fresh order shall be passed by the enquiry officer within six months from the date of appointment of the new enquiry officer. It is made clear that no further extension would be granted to the petitioners or other parties who would appear before the enquiry officer to file their respective say along with the documents. Copy of such reply along with documents proposed to be relied upon by the petitioners shall be served upon the

respondent no.4 simultaneously.

9. Insofar as payment of cost required to be paid to the erstwhile enquiry officer who has submitted his report is concerned, the State Government is directed to pay such cost to him within four weeks from today without fail. It is made clear that such cost which is required to be paid by the State Government to the enquiry officer is without prejudice to the rights of the State Government to recover such cost from the parties concerned found guilty in the independent enquiry that may be conducted under section 85 of the Maharashtra Co-operative Societies Act, 1960.

10. It is made clear that the Registrar who is empowered to conduct such enquiry under section 85 would be empowered to conduct enquiry for payment of cost not only in respect of the cost incurred in the second enquiry but also in respect of the first enquiry, the report whereof is set aside by this Court.

11. The enquiry officer shall submit a report afresh without being influenced by the earlier report submitted by the respondent no.2 and also the prima facie observations made by the learned Minister in the impugned order.

12. All the parties are directed to co-operate with the enquiry officer in submitting a fresh report. None of the parties shall ask for any unnecessary adjournment. Enquiry officer shall not grant any unnecessary adjournment to any of the parties. If any of the parties do

not co-operate with the enquiry officer, the same shall be reflected in the enquiry report.

13. In view of this order setting aside the enquiry report and the order passed by the learned Minister, further steps taken by the Registrar in issuing notice under section 85 also is quashed and set aside. It is made clear that the learned Registrar would be at liberty to initiate a fresh enquiry under section 85 on the basis of the report that may be submitted by the enquiry officer in accordance with law.

14. Writ petition is disposed of in the aforesaid terms. No order as to costs.

15. The parties to act on the authenticated copy of this order.

[R.D. DHANUKA, J.]