

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

WRIT PETITION NO.9823 OF 2018

Shri. Avinash Jagannath Mohite Petitioners
& Ors.

Vs.

The State of Maharashtra & Anr. Respondents

Mr. Amit B. Borkar for the Petitioners.

Mr. A.V. Anturkar, Senior Counsel I/by Mr. Tanaji Mhatugade for
Respondent no.3.

Ms. Vaishali Nimbalkar, AGP for the State.

Coram : SMT. SADHANA S. JADHAV, J.

Date : 18th September 2018

P.C.:

1 Heard the respective counsel. Rule. Rule is made
returnable forthwith with the consent of the parties.

2 The petitioners herein are facing an inquiry under
Section 83 of the Maharashtra Co-operative Societies Act, 1960. On

9th July 2018, the petitioners herein had filed an application seeking documents from the year 1999. The Enquiry Officer i.e. respondent no.2 has passed an order on the same day i.e. on 9th July 2018 directing the present governing body i.e. the respondent no. 3 to handover the documents pertaining to the years 2010 to 2015, hence, this petition.

3 Learned counsel for the petitioners, Mr. Borkar, submits that the inquiry is pertaining to certain issues such as staffing pattern and the expenses that were incurred by the Directors and the officials of respondent no.3 during the period 2010 to 2015. According to the learned counsel, the documents that were demanded were in order to show to the Enquiry Officer that there are no fixed norms as far as the staffing pattern is concerned. That the expenditure incurred by the body was necessary and the petitioners were intending to demonstrate before the Enquiry Officer that the earlier management had followed independent patterns. The petitioners submit that they could not raise their defence for want of the said documents.

4 Learned Senior Counsel, Mr. Anturkar appearing for respondent no.3, upon specific instructions, submits that the petitioners have been given all relevant documents pertaining to the subject of inquiry and therefore it would be irrelevant to ask for the records, which are more than 12 years old. It appears that the petitioners are also calling for the documents for the years 2016-2017 and 2017-2018.

5 According to the learned counsel for the petitioners the impugned order has been passed mechanically without examining the relevancy of the documents. In any case, it would be open to the petitioners to file their reply saying that they have followed the convention, which is not mentioned in the bye-law. It would be open for the Enquiry Officer to consider the defence. It is more than clear that the inquiry under Section 83 of the Maharashtra Co-operative Societies Act is not conducted in accordance with the strict rules of the Code of Civil Procedure or Law of Evidence. Rule 71(1) of the Maharashtra Co-operative Societies Rules, 1961 is reproduced

herebelow :

“71. Procedure and principles for the conduct of inquiry and inspection:

(1) An order authorising inquiry under Section 83 or inspection under Section 84 shall, among other things, contain the following :

(a) the name of the person authorised to conduct the inquiry or inspection;

(b) the name of the society whose affairs are to be inquired into or whose books are to be inspected;

(c) the specific point or points on which the inquiry or inspection is to be made, the period within which the inquiry, or inspection is to be completed and report submitted to the Registrar;

(d) cost of inquiry;

(e) any other matter relating to the inquiry or inspection.”

6 Suffice it to say that in order to prepare themselves for the defence as contended by the learned counsel for the petitioners, the petitioners would be permitted to take inspection of the documents. Mr. Anturkar upon instructions fairly submits that the respondent no. 3 would raise no objection as far as the inspection of documents is concerned. The inspection to be completed by 5.00 pm. of 22nd September 2018.

7 The respondent no.3 shall not refrain from giving inspection of any documents demanded.

8 With these observations, rule is discharged. The petition stands disposed of.

9 All contentions are kept open. The petitioners shall not raise any issue about the relevancy of the documents as they are being granted permission to inspect the documents as demanded. Time for filing reply in the inquiry proceeding is extended upto 1st October 2018. The petitioners also undertake to co-operate with the inquiry and the Enquiry Officer to complete the inquiry at the earliest.

(SMT. SADHANA S. JADHAV, J.)