

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****WRIT PETITION NO. 11711 OF 2013**

**Mauli Sahakari Gruhanirman Sanstha
Ltd. & Anr.**

..... Petitioners

VERSUS

Ajit Y.Todankar & Ors.

..... Respondents

Mr.Ashok B. Tajane for the Petitioner.

Mr.Sandesh Deshpande for the Respondent nos. 1 to 4.

Ms.Kavita N.Solunke, A.G.P. for the State – Respondent nos. 5 and 6.

CORAM : R.D. DHANUKA, J.

DATE : 7th FEBRUARY, 2018

P.C.

Rule. Learned A.G.P. waives service for the respondent nos. 5 and 6. Mr.Deshpande Learned counsel waives service for the respondent nos. 1 to 4. Heard finally by consent of parties.

2. By this petition filed under Article 227 of the Constitution of India, the petitioners have impugned the order dated 21st September,2013 passed by the learned Minister, Department of Co-operation, Mantralaya thereby allowing the revision application filed by the respondent nos. 1 to 4.

3. A perusal of the record clearly indicates that the respondent nos. 1 to 4 had filed an appeal against the order of the authority granting

certificate of registration of society to the petitioners. The said appeal was withdrawn unconditionally. After two years of withdrawal of the said appeal, the respondent nos. 1 to 4 filed appeal before Learned Minister which was treated as revision application. There was no application for condonation of delay filed by the respondent no.1 before the learned Minister.

4. A perusal of the impugned order passed by the learned Minister indicates that the learned Minister has allowed the said revision without going into the issue whether there was any delay in filing the said application or not and also without going into the issue whether it was maintainable before the learned Minister or not. In my view the impugned order passed by the learned Minister is ex-facie erroneous and contrary to the provisions of Maharashtra Co-operative Societies Act, 1960 and thus deserves to be set aside.

5. I, therefore pass the following order :-

- (a) The impugned order dated 21st September, 2013 passed by the learned Minister is set aside.
- (b) The revision application filed by the respondent nos. 1 to 4 is restored to file.
- (c) The learned Minister shall decide the issue whether the said application itself was at all maintainable under any of the provisions of the Maharashtra Co-operative Societies Act, 1960 and

also if maintainable, whether respondent nos. 1 to 4 had explained delay in filing the said proceedings. If there is no application for condonation of delay filed by the respondent nos. 1 to 4 before the learned Minister, the same shall be filed within two weeks from today.

(d) It is made clear that if the learned Minister comes to the conclusion that the respondent nos. 1 to 4 have made out a case for condonation of delay and if the said revision application is maintainable under any of the provisions of the Maharashtra Co-operative Societies Act, 1960, the learned Minister shall decide the said application on its own merits without being influenced by the observations made in the impugned order dated 21st September, 2013 and the conclusions drawn therein and in accordance with law after complying with the principles of natural justice.

6. Rule is made absolute in the aforesaid terms. Interim order granted by this court to continue till disposal of the revision application by the learned Minister and for a period of four weeks thereafter.

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

8. No order as to costs.

[R.D. DHANUKA, J.]