IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.347 OF 2019

1. Shri. Raosaheb s/o Mango Patil,
Age: 49 years, Occu: Service,
R/o: Gunjan Bungalow, Behind Samrat Hotel,
Amalner, Tq. Amalner, District Jalgaon

2. Shri Yogesh s/o Jagannath Saner,
Age: 42 years, Occu: Service,
R/o : Plot No.36, Deshmukhnagar, Yawal Road,
Chopada, Tq. Chopada, District Jalgaon ..PETITIONERS

VERSUS

1. The State of Maharashtra,
Through its Secretary,
Cooperation and Textile Department,
Mantralaya, Mumbai-32

2. The Cooperative Commissioner and Registrar,
Cooperative Societies, Maharashtra State,
Pune

3. The Divisional Joint Registrar,
Cooperative Societies, Nashik Division,
Nashik, District Nashik

4. The District Deputy Registrar,
Cooperative Societies, Jalgaon,
District Jalgaon

5. The Chairman / President,
Jalgaon Zilla Sarkari Naukranchi Sahkari
Patpedhi Ltd., Jalgaon,
Tq. & Dist. Jalgaon ..RESPONDENTS

Mr Maheshkumar S. Sonawane, Advocate for petitioners;
Ms. R. P. Gaur, A.G.P. for respondent Nos.1 to 4;
Mr V. D. Hon, Senior Advocate instructed by Mr A. V. Hon, Advocate for respondent No.5-caveator

(2)

CORAM : PRASANNA B. VARALE
AND
S. M. GAVHANE, JJ.

DATE : 10th January, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioners. Mr Hon, learned Senior Advocate appears on caveat on instructions of Mr A.V. Hon for respondent no.5.

2. As a very limited issue is raised in the present petition, the petition is taken up for hearing at the admission stage itself.

3. The petitioners are challenging the order passed by the Divisional Joint Registrar, Co-operative Societies, Nashik Division, Nashik, dated 26th December, 2018. By this order, the Divisional Joint Registrar decided the representation submitted by these very petitioners by a detailed and exhaustive order. It may be necessary for us just to refer to the backdrop prompting the authorities to take a decision and we may safely refer to the order of the Division Bench of this Court dated 17th October, 2018, which is placed on record by the petitioners at Exh.'O'. On the backdrop of the fact situation that a complaint is submitted by the petitioners to the authority and is pending before the authority, the Division Bench directed the authority, namely, District Deputy Registrar to consider the complaint-representation and decide the same.

4. The thrust of the learned Counsel appearing on behalf of the petitioners is on two aspects, firstly; it was submitted before us by inviting our attention to a Circular dated 17th March, 2011, that as per the said Circular if the business is more than Rs.5 Crores and within thousand Crores, the staffing pattern approves a particular number of employees. An attempt was made before us to submit that as per the brochure of respondent no.5 which is placed on record at page 26 of the petition, the business of respondent no.5 was more than Rs.500 Corers and below Rs.1,000/- Crores. On perusal of the very document, namely, the brochure, we are unable to accept the submission of the learned Counsel for the simple reason that the petitioners are treating the head under the capital as if it is the business of respondent no.5. There is another reason for not accepting the submission , in view of submission of learned Senior Advocate Mr Hon. Mr Hon, learned Senior Advocate submitted that the reliance placed on the Circular itself is misreading of the document by the petitioners to suit their purpose and nothing more than that. Mr Hon was justified in making this submission for the simple reason that the Circular refers to and takes in its sweep the banking institutes, more particularly the co-operative banks, whereas respondent no.5 cannot be termed by any stretch of imagination either a “co-operative bank” or a “banking institution” and the nature of respondent no.5 is of “Patpedhi” (credit co-operative society), which is a different entity from a banking institute or a bank.

5. On perusal of the order impugned in the petition it further reveals that the authority dealt with each and every point raised by these petitioners in their complaint/representation. It may not be necessary for us to refer to all the other points and we restrict our order *qua* the order impugned on the other point raised by the petitioner. It is the submission of the learned Counsel appearing on behalf of the petitioner, that as per the communication dated 8th February, 2016 the permission granted to respondent no.5 for appointing the employees was subject to certain conditions and condition no.6 is very important condition. Condition no.6 relates to a cap on respondent no.5 in the words "that the working capital" and it states that the working capital must not exceed more than 2%. The submission of the learned Counsel appearing for the petitioners is, the authority while deciding the representation failed to consider this aspect. Mr Hon submitted that even this submission is not in consonance with the factual aspect, namely, the reference to the "working capital" in the order. By inviting our attention to the order impugned, learned Senior Advocate Mr Hon submitted that the authority referred to this aspect in clear terms. Mr Hon was justified in making these submissions as the impugned order refers to this material being assessed by the District Deputy Registrar of Co-operative Societies in his order. The authority refers to the data in the order and it may be useful for our reference to reproduce the data, which reads thus :-

> "For the year 2014-15 the working capital of respondent no.5 was to the tune of Rs.812,06,52,151/- and the administrative

expenses were to the tune of Rs.13,90,60,943/-."

Thus, the District Deputy Registrar stated that the working capital is more than 2% in percentile. Similar is the fact for the years 2015-16, 2016-17 and 2017-18. For these years the working capital in percentile is 1.92%, 1.80% and 1.75% , respectively, meaning thereby, less than 2%.

6. An attempt was made by the learned Counsel for the petitioners to submit before us that as per the information received by the petitioners by approaching the authority under the Right to Information Act, the administrative expenses were at the rate of 6.24% and the learned Counsel, in support of this submission refers to the document placed on record at pages 36 and 37. Though it is the submission of the petitioners that this material is obtained by the petitioners by approaching the authority under the Right to Information Act, there is nothing on record to show that this material was duly provided to the petitioners under the provisions of the Right to Information Act. Be that as it may, the petitioners are again relying on this material in support of their case to say that the administrative expenses are more than 2%. As such, the order impugned is unsustainable.

7. At the cost of repetition, we say that the petitioners are again misreading the document for the simple reason, the cap is on the working capital and this aspect is referred to in the impugned order. There is nothing placed on record that there was also a cap on the administrative expenses.

8. Having regard to all aforesaid aspects, we are of the opinion that the petition is thoroughly meritless and deserves to be dismissed at the threshold and the same is accordingly dismissed.

(S. M. GAVHANE, J.) **(PRASANNA B. VARALE, J.)**

amj