

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3536 OF 2019

Suresh S/o Machhindra Galande,
Age: 62 years, Occu: Agril.,
R/o: Undirgaon, Tq. Shrirampur,
Dist. Ahmednagar.

...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation, Marketing and Textile
Department, Mantralaya, Mumbai-32.
2. The Regional Assisatant Director (Sugar)
Ahmednagar.
3. Undirgaon Vividh Karyakari Seva Sahakari
Society Maryadit, Undirgaon, Tq. Shrirampur,
Dist. Ahmednagar
Through Secretary.
4. Ashok Sahakari Sakhar Karkhana
Limited, Ashok Nagar, Shrirampur,
Tq. Shrirampur, Dist. Ahmednagar
Through its Managing Director.
5. Jitendra s/o Abasaheb Bhosale,
Age: 42 years, Occ. Agril.,
R/o Valadgaon, Tq. Shrirampur,
Dist. Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO. 3491 OF 2019**

Sulochna w/o Manikrao Pawar,
Age: 55 years, Occu: Household,
R/o: Wadala Mahadev, Tq. Shrirampur,
Dist. Ahmednagar.

...Petitioner

VERSUS

1. The State of Maharashtra

Through its Secretary,
Co-operation, Marketing and Textile
Department, Mantralaya, Mumbai-32.

2. The Regional Assisatant Director (Sugar)
Ahmednagar, IInd Floor,
Trilok Chamber, Laltaki Road,
Ahmednagar.
3. Wadala Mahadev Vividh Karyakari Seva Sahakari
Society Maryadit, Wadala Mahadev, Tq. Shrirampur,
Dist. Ahmednagar
Through Secretary.
4. Ashok Sahakari Sakhar Karkhana
Limited, Ashok Nagar, Shrirampur,
Tq. Shrirampur, Dist. Ahmednagar
Through its Managing Director.
5. Jitendra s/o Abasaheb Bhosale,
Age: 42 years, Occ. Agril.,
R/o Valadgaon, Tq. Shrirampur,
Dist. Ahmednagar. ...Respondents

**WITH
WRIT PETITION NO. 3492 OF 2019**

Raosaheb s/o Hari Thorat,
Age: 75 years, Occu: Agril.,
R/o: Ukkalgaon, Tq. Shrirampur,
Dist. Ahmednagar. ...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation, Marketing and Textile
Department, Mantralaya, Mumbai-32.
2. The Regional Assisatant Director (Sugar)
Ahmednagar, IInd Floor,
Trilok Chamber, Laltaki Road,
Ahmednagar.
3. Ukkalgaon Vividh Karyakari Seva Sahakari
Society Maryadit, Ukkalgaon, Tq. Shrirampur,

Dist. Ahmednagar
Through Secretary.

4. Ashok Sahakari Sakhar Karkhana Limited, Ashok Nagar, Shrirampur, Tq. Shrirampur, Dist. Ahmednagar Through its Managing Director.

5. Jitendra s/o Abasaheb Bhosale, Age: 42 years, Occ. Agril., R/o Valadgaon, Tq. Shrirampur, Dist. Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO. 3493 OF 2019**

Abasaheb s/o Babasaheb Gaware,
Age: 38 years, Occu: Agril.,
R/o: Shirasgaon, Tq. Shrirampur,
Dist. Ahmednagar.

...Petitioner

VERSUS

1. The State of Maharashtra Through its Secretary, Co-operation, Marketing and Textile Department, Mantralaya, Mumbai-32.
2. The Regional Assisatant Director (Sugar) Ahmednagar, IInd Floor, Trilok Chamber, Laltaki Road, Ahmednagar.
3. Shirasgaon Pragat Bagayatnagar Vividh Karyakari Seva Sahakari Society Maryadit, Shirasgaon, Tq. Shrirampur, Dist. Ahmednagar Through Secretary.
4. Ashok Sahakari Sakhar Karkhana Limited, Ashok Nagar, Shrirampur, Tq. Shrirampur, Dist. Ahmednagar Through its Managing Director.
5. Jitendra s/o Abasaheb Bhosale, Age: 42 years, Occ. Agril.,

R/o Valadgaon, Tq. Shrirampur,
Dist. Ahmednagar.

...Respondents

**WITH
WRIT PETITION NO. 3526 OF 2019**

Digambar s/o Sarjerao Shinde,
Age: 50 years, Occu: Agril.,
R/o: Belpimpalgaon, Tq. Newasa,
Dist. Ahmednagar.

...Petitioner

VERSUS

1. The State of Maharashtra
Through its Secretary,
Co-operation, Marketing and Textile
Department, Mantralaya, Mumbai-32.
2. The Regional Assisatant Director (Sugar)
Ahmednagar.
3. Shri. Hanuman Vividh Karyakari Seva Sahakari
Society Maryadit, Belpimpalgaon, Tq. Newasas,
Dist. Ahmednagar
Through Secretary.
4. Ashok Sahakari Sakhar Karkhana
Limited, Ashok Nagar, Shrirampur,
Tq. Shrirampur, Dist. Ahmednagar
Through its Managing Director.
5. Jitendra s/o Abasaheb Bhosale,
Age: 42 years, Occ. Agril.,
R/o Valadgaon, Tq. Shrirampur,
Dist. Ahmednagar.

...Respondents

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Mr. Rahul R. Karpe, Advocate for the Petitioner(s).
Mr. K.S. Patil, AGP for Respondents/State.
Mr. Ajay G. Talhar, Advocate for Respondent No.5.

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**CORAM : P.R. BORA, J.
DATED : 20th March, 2019.**

ORAL JUDGMENT:-

. Rule. Rule made returnable forthwith.

2. Since all these writ petitions involve the common issues to be decided, I heard the common arguments in all these petitions and I deem it appropriate to decide these petitions by a common reasoning.

3. The petitioners in all these petitions are the Directors of respondent no.4 Sugar Factory namely Ashok Sahakari Sakhar Karkhana Limited, Ashok Nagar, Shrirampur. One of the petitioner is the existing Chairman of the said Sugar Factory. One Jitendra Abasaheb Bhosale, who is respondent no.5 in all these petitions had raised a dispute before the Director of Sugar alleging that the petitioners have incurred disqualification under Section 73FF of the Maharashtra Co-operatives Societies Act, 1960 since, they have become defaulters of respondent no.3 society. It was further alleged that since the petitioners have committed a default in repaying the loan amount of respondent no.3 society, they were disqualified to continue as the Directors of respondent no.4 Sugar Factory.

4. On such a dispute/complaint made by respondent no.5, an enquiry was conducted by the Office of Director of

Sugar and after hearing the petitioners and the disputant/complainant, the Regional Joint Director (Sugar) and the Joint Registrar Co-operative Societies, Ahmednagar passed an order on 07.04.2018 and thereby disqualified the petitioners from holding the post of Director of respondent no.4 Sugar Factory and consequently, removed them from the said post.

5. Aggrieved by the aforesaid order, petitioners filed the appeals before the Hon'ble Co-operative Minister. The Hon'ble Minister had granted interim stay to the order passed on 07.04.2018, by virtue of which the petitioners continued to be the directors of respondent no.4 Sugar Factory. The Hon'ble Minister has finally dismissed the said appeals vide a common order dated 12.02.2019 and confirmed the order passed by the Lower Authority on 07.04.2018. Aggrieved by, the petitioners have preferred the present writ petitions.

6. Shri R.R. Karpe, the learned counsel appearing for the petitioners assailed the impugned orders mainly on two grounds, first that the petitioners have been wrongly held to be the defaulters and second that before removing the petitioners, there was no effective consultation with the

federal society as provided under Section 78(1) of the Maharashtra Co-operative Societies Act, 1960 read with Rule 64 of the Maharashtra Co-operative Societies Rules, 1961.

7. The learned counsel submitted that all the petitioners had obtained the crop loan from respondent no.3 society in the year 2015 and the same was liable to be repaid by the end of next calendar year. In the case of Suresh Galande, the petitioner in Writ Petition No.3536 of 2019 which was before this Court while hearing the arguments of the parties, the crop loan was obtained by the said petitioner on 30.06.2015 and the period for repayment of the said loan was upto the end of 30.06.2016. The learned counsel pointed out that in the year 2015-2016, since there was a drought like situation and the ane-wari (vkusokjh) had gone down to 50%, the State Government had taken a decision to convert the crop loans into mid-term loans. The learned counsel submitted that such a decision was taken vide Government Resolution dated 11.03.2016 and the circulars in that regard were issued in the subsequent period.

8. The learned counsel submitted that in view of the policy adopted by the government and in view of the

Government Resolution dated 11.03.2016, the crop loans of each of the petitioners were converted into mid-term loans and for repayment of the said loans the schedule was re-fixed. It was the contention of the learned counsel that in the circumstances, in no case any of the petitioner was liable to be stamped as a defaulter of the society. The learned counsel submitted that the aforesaid aspect has not been appropriately considered by the Office of Directors of Sugar at the first instance and thereafter by the Hon'ble Minister.

9. The second objection as was raised by Shri Karpe that in the orders itself, both the authorities have mentioned that there could not be any effective consultation with the federal society which in the present case is the Apex Body of the Co-operative Sugar Societies in the State of Maharashtra. The learned counsel taking me through the provisions of the Maharashtra Co-operative Societies Act and more particularly the provisions under Section 73(c)(a) read with Section 78 and Rule 64(2) submitted that without consultation with the apex body, no order could have been passed removing the petitioners from holding the post of directors. The learned counsel placed his reliance on the judgment of the division bench of this Court in the case of

"Suresh Dnyandeo Khumbar and Ors Vs. State of Maharashtra and Ors, 1987 Mh.L.J. 474." The learned counsel submitted that there is nothing on record or nothing is reflected in both the orders impugned in the present petitions that the consultation with the federal society was sought before passing the impugned orders. The learned counsel pointed out that the material on record reveals that after the relevant papers were forwarded to the said apex body without waiting for any communication from the said authority and before completion of the period as prescribed in Rule 64(2) of the Maharashtra Co-operative Societies Rules, the impugned orders were passed by the first authority and similarly by the second authority. The learned counsel submitted that in such circumstances, on both the counts the orders cannot be sustained and deserves to be set aside.

10. Opposing the submissions made on behalf of the petitioners, Shri Talhar, the learned counsel appearing for respondent no.5 as well as the learned AGP Shri Patil, both supported the impugned judgments. It was sought to be contended by Shri Talhar that consultation with the federal society was not mandatory while removing the present petitioners. According to the learned counsel, such a

consultation is mandatory if the entire managing committee has to be superseded or removed. The learned counsel submitted that the decision relied upon on behalf of the petitioners may not apply to the facts of the present case. The learned counsel and the learned AGP further submitted that ample evidence was there before the concerned authorities evidencing that the petitioners had committed a default in repayment of the loan obtained by them from respondent no.3 society. It was also contended that the petitioners were not liable to get any benefit of the said scheme and were owing a duty not to incur any disqualification under Section 73FF of the Maharashtra Co-operative Societies Act. It was the contention of the learned counsel that the record clearly shows that the crop loans were not repaid by the petitioners within the stipulated period and as such the first authority had rightly held all of them to have become defaulters. The learned counsel in the circumstances, prayed for rejecting the petitions. The learned AGP has adopted the arguments advanced by the learned counsel Shri Talhar.

11. In fact, the arguments were heard on interim relief. The arguments were also restricted by the learned counsel for the petitioners to that extent. However, during

course of the arguments advanced by the learned counsel appearing for the petitioners as well as the learned counsel appearing for respondent no.5, it was revealed that there were some basic lacuna's in both the impugned orders. First that admittedly there was no effective consultation with the federal society. Though it was vehemently argued by the learned counsel appearing for respondent no.5 that such a consultation was not required in so far as of the cases of the present petitioners are concerned, the arguments so made is not acceptable. This Court accordingly when expressed the view that from the available record, the consultation as was required under Section 78(1) read with Rule 64(2) appears to be lacking, a suggestion came forward from the learned counsel appearing for respondent no.5 as well as the learned AGP that the deficiency was curable and in such circumstances, the matter can be remitted to the authority for the said limited purpose. However, in the further arguments it was noticed that another objection as has been raised on behalf of the petitioners whether the petitioners can be held defaulters is also a issue which required to be reconsidered since, in both the orders there is no reference about the scheme introduced by the government and what would be the

impact of the said scheme, if the crop loan is converted into mid-term loan. In the circumstances, after deliberation for sometime, the counsel appearing for both the parties jointly submitted a proposal that the present petitions can be disposed of by setting aside the orders and by directing a fresh enquiry into the dispute/complaint made by respondent no.5 afresh by giving due opportunity to both the parties.

12. After having considered the entire material on record, this Court is also of the opinion that the issues as are raised which are discussed by me here-in-above, required to be reconsidered by the authorities concerned. In the circumstances, I see no difficulty in accepting the suggestion given by the learned counsel appearing for the parties, on instructions from their respective clients. As such, these writ petitions stand disposed of with the following order:

ORDER

- i) The order passed by the Regional Assistant Director (Sugar), Ahmednagar on 07.04.2018 and the order passed by the Hon'ble Minister on 12.02.2019 are set aside.
- ii) The matters are remitted to the Lower Authority to decide them afresh by giving due opportunity to the parties

to the said proceedings.

iii) It is expected that the First Authority shall decide the applications, as expeditiously as possible and preferably within a period of six months.

iv) Parties to co-operate with the authorities till completion of the enquiry in the matters.

v) The issues as are raised by the parties in the present petitions are kept open to be agitated before the concerned authorities.

vi) All writ petitions stand allowed in the aforesaid terms.

vii) Rule is made absolute in the aforesaid terms.

(P.R. BORA, J.)

Mujaheed//