

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

991 WRIT PETITION NO.12769 OF 2018

**ANANDRAO SHIVRAM SURWADE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Advocate for Petitioners : Miss P.S.Talekar for Talekar Associates

AGP for Respondents : Mrs.M.A.Deshpande

Adv.N.R.Pawade for R.6

Adv.P.K.Lakhotia for R.4

**CORAM : S.V.GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 26/06/2019

PER COURT :

Miss.Talekar, learned counsel for petitioner submits that the Assistant Registrar came to the conclusion that the expulsion of the petitioner was not in consonance with Sections 35 and Rule 29 of the Maharashtra Cooperative Societies Act and Rules. Even amendment to the bye-law was made behind the back of the petitioner. However, only on the ground that he does not have the jurisdiction and petitioner has to approach the Cooperative Court under Section 91 has disposed of the application.

2] According to the learned counsel the Assistant Registrar has every authority to decide about the expulsion of member. The learned counsel relies on the judgment of the Division Bench of this Court in the case of K.V.Sundaram and another V/s Raj Rajeshwari Co-operative Housing Society Ltd. and others reported in 1980

Mh.L.J. page 4 and another judgment of the Apex Court in the case of **Anil s/o Wamanrao Gawande V/s Mahalaxmi Railway Karmachari Sahakari Griha Nirman Sanstha Ltd. Akola and others reported in 2014 (2) Mh.L.J. 24.**

3] Mr.Pawade, learned counsel appears for respondent no.6 and submits that as per amended bye-law the petitioner is expelled as a member and rightly so. We also heard the learned AGP for respondents 1 to 4.

4] The Assistant Registrar has disposed of the application on the ground that the matter can only be dealt with u/s 91 of the Maharashtra Cooperative Societies Act though has made observation with regard to Section 35 Rule 29 of the Maharashtra Cooperative Societies Act and Rules.

5] Be that as it may. Considering the judgment in the case of Anil and K.V.Sundaram supra, it is a fact that the Registrar has to decide whether he will give approval to the resolution expelling a member or not and that till the time Assistant Registrar approves authority of the Society shall continue him as legal valid member of the society. The Assistant Registrar is certainly competent to decide about the validity of the resolution passed by the society expelling the petitioner.

6] In light of the above, the impugned order passed by Assistant Registrar, Cooperative Societies, Partur is quashed and set aside. The petitioner and respondent no.6 shall appear before Assistant Registrar, Cooperative Societies, Partur on 4/7/2019 and put forth their case. The Assistant Registrar shall decide the said proceeding expeditiously preferably within 2 months from the date of appearance

of the parties. Depending upon the judgment and order passed by the Assistant Registrar, Municipal Council shall also consider the application of the petitioner seeking building construction permission.

7] With regard to other prayer clauses the petitioner may approach the Co-operative Court as may be permissible.

8] Writ Petition is disposed of. No costs.

(MANGESH S. PATIL,J.)

(S.V.GANGAPURWALA,J.)

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