

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

WRIT PETITION NO.8684 OF 2017

WITH

WP/11867/2018 WITH WP/1289/2018 WITH WP/1290/2018 WITH
WP/1291/2018 WITH WP/1292/2018 WITH WP/1293/2018 WITH
WP/1294/2018 WITH WP/1295/2018 WITH WP/1296/2018 WITH
WP/1297/2018 WITH WP/1298/2018 WITH WP/1299/2018 WITH
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WP/1402/2018 WITH WP/11868/2018 WITH WP/11869/2018 WITH
WP/11870/2018 WITH WP/11871/2018 WITH WP/11872/2018 WITH
WP/11873/2018 WITH WP/11874/2018 WITH WP/11875/2018 WITH
WP/11876/2018 WITH WP/11877/2018 WITH WP/11878/2018 WITH
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WP/11882/2018 WITH WP/11883/2018 WITH WP/11884/2018 WITH
WP/11885/2018 WITH WP/11886/2018 WITH WP/11887/2018 WITH
WP/11888/2018 WITH WP/11889/2018 WITH WP/11890/2018 WITH
WP/11891/2018 WITH WP/11892/2018 WITH WP/11893/2018

THE JALGAON DISTRICT CENTRAL COOPERATIVE BANK LTD JALGAON
THROUGH AUTHORIZED GENERAL MANAGER

VERSUS

DIVISIONAL JOINT REGISTRAR CO OPERATIVE SOCIETIES NASHIK AND
OTHERS

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Advocate for the Petitioner : Shri Pawar Vikarm Anandrao and Shri
Salunke Pradeep B.

AGP for Respondents 1 and 2 : Shri N.T.Bhagat.

Advocate for Respondent 3 : Shri V.D.Hon, Senior Advocate h/f Shri
V.P.Patil.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 16th April, 2019

Per Court:

1 This matter was heard on 09.04.2019 and the submissions of the learned Advocate for the Petitioner (Jalgaon District Central Cooperative Bank Limited) in all these identically placed writ petitions, were recorded as follows :-

- "1. The petitioner/Bank is aggrieved by the impugned common order dated 20/03/2017, passed by respondent No.1/ Divisional Joint Registrar, Co-operative Societies, by which the order dated 02/05/2016, passed by the District Deputy Registrar, Co-operative Societies, respondent No.2 herein u/s 81(6) of the Maharashtra Co -operative Societies Act, 1960 and Rule 69(1) of the 1961 Rules, has been quashed and set aside.
2. I have heard the learned Advocate for the petitioner and the learned AGP on behalf of respondent Nos. 1 and 2 authorities under the M.C.S. Act. None present for respondent No.3/Society.
3. The learned Advocate for the petitioner submits that it is a District Central Co-operative Bank and respondent No.3 is a registered Co-operative Primary Agricultural Credit Society. A crop loan policy was introduced by the petitioner in 2014-15 for disbursing crop loans like 'tissue banana loans' to the respondent/ societies and its' members. The disbursement of crop loans was monitored by the Secretaries and office bearers of the respondents/ societies alongwith the Bank Inspectors and such amounts are then disbursed to the farmer members of the respondent No.3/Society.
4. The petitioner contends that such Secretaries and Office Bearers connived with the employees of the petitioner/Bank and have indulged in illegal disbursement of tissue banana loans for an amount of Rs.68 crores to their

farmer members. In 2015, the statutory audit of the petitioner/Bank discovered such fraud and illegalities in the tissue banana loans. The Bank, therefore, conducted the internal inspection of the branches in Dharangaon Taluka. Such statutory audit and internal inspection disclosed a serious fraud and illegalities in the disbursement of tissue banana loans.

5. Societies like respondent No.3 were also subjected to an audit and surprisingly their audits did not disclose or report any such irregularities.
6. It is further contended that the petitioner Bank has followed the due procedure and has dismissed 5 to 6 employees. The District Supervision Society, which provides for services of the Secretaries to Societies like the respondent No.3/Society, suspended 11 Secretaries. In this backdrop, the petitioner approached respondent No.2 for seeking directions to such respondent No.3/societies to conduct a re-audit of such societies. By order dated 02/05/2016, respondent No.2 directed such societies to conduct a re-audit. The said order was challenged by the respondent No.3/Societies by preferring about 52 revision applications u/s 154 of the M.C.S.Act and by the impugned judgment, the order passed by respondent No.2 was quashed and set aside.
7. The grievance of the petitioner as against the impugned order is that respondent No.1 has completely mis-directed itself by concluding that as some of the loan amounts have been recovered, there is no necessity for a re-audit. This was nobody's case before respondent No.1. The impugned order indicates non application of mind. A re-audit would not cause any harm or prejudice to any Law abiding society. Only that society, which fears a discovery of irregularities through a re-audit, would be raising objections as like the respondent No.3 Societies.
8. At this juncture, it is informed that the learned Advocate for the contesting respondent No.3

- societies has entered a leave note till 12/04/2019.*
9. *As such, stand over to 16/04/2019 for "passing orders". If the Counsel for the respondent No.3 Societies is available, his submissions would be considered, before passing an order. If none remains present for respondent No.3/Society on the next date, this Court would proceed to decide the matters."*

2 In the light of the above, Shri Hon, the learned Senior Advocate appearing on behalf of Respondent No.3 (Village Level Cooperative Societies) in all these petitions, has put forth his submissions at length. It is informed that for the Financial Year 2014-2015, which is at issue in these matters, these Cooperative Societies were subjected to an audit by the Certified Auditor selected from the list of the certified auditors prepared by the Joint Registrar, Cooperative Societies. It is admitted that the accounts of these societies for the Financial Year 2014-2015 were not audited by the Chartered Accountant.

3 The grievance voiced by the Societies is that when the impugned order was passed by the District Deputy Registrar, Cooperative Societies, Jalgaon dated 02.05.2016 directing a re-audit of these Respondent No.3 Societies through the Deputy Auditor, Cooperative Societies, none of these Societies were heard. Even the notice of hearing was not issued.

4 Shri Pawar, learned Advocate for the Petitioner Bank,

categorically submits, in the light of Section 81 of the Maharashtra Cooperative Societies Act, 1960, that under Section 81(6) r/w Rule 69(1) of the Maharashtra Cooperative Societies Rules, 1961, there is no provision for hearing any society before directing a re-audit. He, however, submits that if a particular time frame is granted, keeping in view that the dispute pertains to the sanctioning of loans and malpractices at the end of the Societies, for the Financial Year 2014-2015, such Societies could be heard and the District Deputy Registrar could pass a fresh order.

5 Shri Pawar, however, raises an apprehension, in view of the impugned order passed by the Divisional Joint Registrar, Cooperative Societies, Nashik, that he has interfered with the order of the District Deputy Registrar and set aside the direction of re-audit only on the ground that substantial portions of the loan amount were recovered. He submits that the refusal to direct re-audit on the plea of substantial recovery of loan amount, is alien to law since the Petitioner Bank is seeking a re-audit only for the reason that there were huge malpractices in the submission of proposals by the Societies and disbursement of loans. For illustration, he submits that some agriculturists did not have agriculture fields, some of them were not into Banana plantation activities and some of them even did not purchase Banana tissues. This can be revealed only if a proper auditor causes a re-audit so that the liability would be fixed and errant officers or agriculturists would be exposed.

6 The learned Senior Advocate submits, on instructions, that these Societies would have no difficulty in appearing before the District Deputy Registrar through a common legal representative/ advocate since all these societies are identically placed. All of them can advance the oral submissions through a lead advocate and can address the mind of the District Deputy Registrar against the application filed by the Petitioner Bank seeking a re-audit.

7 In view of the above, the learned advocates for the respective sides suggest that they would appear before the District Deputy Registrar, Cooperative Societies, Jalgaon on two days i.e. 09.05.2019 and 10.05.2019 and would put forth their submissions. Thereafter, the District Deputy Registrar can close the proceedings for passing orders.

8 In the light of the above, these Writ Petitions are partly allowed so as to facilitate a proper hearing before the District Deputy Registrar, Cooperative Societies, Jalgaon. The common impugned order dated 20.03.2017 passed by the Divisional Joint Registrar, Cooperative Societies, Nashik stands quashed and set aside and all the revision applications filed by Respondent No.3 Societies stand disposed off.

9 All the litigating sides shall appear before the District Deputy Registrar, Cooperative Societies, Jalgaon at 11:00 am on 09.05.2019. The Petitioner Bank, which has moved the request for seeking a direction under Section 81(6) r/w Rule 69(1), shall open it's oral submissions.

Leave to address the District Deputy Registrar through an advocate is permitted. Written notes of arguments can also be filed by all the sides. Since all the Societies are identically placed, they would adopt the arguments of the learned advocate, who would lead the societies in canvassing their arguments and legal points. The litigating sides shall complete their oral submissions by 05:00 pm on 10.05.2019. Thereafter, the District Deputy Registrar shall fix a date in the presence of the parties, on which, he would pronounce his order. The parties would remain present on the date on which, the District Deputy Registrar would pronounce his order. Copies of the order of the District Deputy Registrar shall be kept available so as to enable the litigating sides to seek copies of the said order.

10 It is made clear that in these proceedings, the District Deputy Registrar or the Divisional Joint Registrar, in the event the matter reaches his office, would consider the contentions of the litigating sides on their merits and would not be influenced by the factum of the quantum of recovery made as against the loans disbursed.

11 It is further made clear that since this order is passed in view of the consensus, the same shall not be cited as a precedent in any such matter or similar matter before any court or authority.