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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8074 OF 2019**

Pimpri Audoyogik Kamgar Sahakari
Griharachan Sanstha Maryadit

... Petitioner.

V/s

State of Maharashtra and Others

.... Respondents.

Mr. Makrand Kale i/b Mr. Akhil Kupade for the Petitioners.

Mr. A.B. Kadam, AGP for Respondent Nos. 1 to 3.

Mr. Rajshekhar V. Govilkar alongwith Ms. Shaba N. Khan for
Respondent No.5.

CORAM: NITIN W. SAMBRE, J.

DATE: 31st July, 2019

P.C.:

1] Heard by consent finally at the admission stage.

2] This Court in an earlier round of litigation directed an order of audit under Section 81 of the Maharashtra Co-operative Societies Act. This very Audit Report and complaints by members is found to be the basis for inquiry under Section 83 of the Act. The order passed under Section 83 by the Deputy Registrar, Co-operative Societies on 13/12/2018 was questioned in Revision under Section 154 of the Act before Divisional Joint Registrar. The Divisional Joint Registrar has

ordered condonation of delay caused in preferring the Revision. However, prayer of the Petitioner for grant of stay was refused. As such, this Petition.

3] The submissions are, once Revision of the Petitioner is pending, questioning the order passed under Section 83 of the Act, till the same is decided, authority should have stayed its hands away while taking the order under Section 83 to its logical end. It is submitted that Section 83 ought not to have been invoked based on complaint of members, unless 1/5th of the total strength of the members of the Society has chosen to prefer such complaint.

4] The learned Counsel for Respondent No.5 and learned AGP in support of the order impugned, would draw attention of this Court to the language of Section 83 and submit that there is sufficient material which has prevailed over District Deputy Registrar to pass an order under Section 83, directing an inquiry. According to them, order of refusal of stay is very much justified.

5] Considered the rival submissions.

6] In the order passed under Section 83 of the Act, the District Deputy Registrar has referred to two instances viz (i) Audit Report under Section 81, (ii) complaint by members of the Society. The learned Counsel for Respondent No.5 is right in inviting attention of this Court to the order under Section 83 that the same is passed on Audit Report under Section 81. The fact remains that even if an Audit Report under Section 81 is formed to be the basis for order under Section 83 of inquiry, there is reference made to complaints in an order under Section 83.

7] As such, what can be noticed is, an order under Section 83 is passed on Audit Report so also on complaint.

8] In the aforesaid background, in my opinion, an order of refusal to stay needs interference to the following extent.

9] Let the inquiry under Section 83 be continued against the Petitioner. However, no final order be passed in the matter till Revision preferred by the Petitioner is decided. Let Revision of the

Petitioner be decided within a period of four months from today.

10] Petition is partly allowed in the aforesaid terms. Needless to clarify that this Court has not gone into the merits of the matter.

(NITIN W. SAMBRE, J.)