

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10292 OF 2019

M. Narayanan

... Petitioner

V/s.

The State of Maharashtra and ors. ... Respondents

Dr.Uday P. Warunjikar for the Petitioner.

Mr.S.H.Kankal, AGP for Respondent Nos. 1 and 2.

Mr.Sohani i/by M/s Ram & Co. for the Respondent No.3.

CORAM : UJJAL BHUYAN, J.

DATE : OCTOBER 09, 2019.

P.C.:-

1. Heard Dr.Uday Warunjikar, learned counsel for the petitioner; Mr. S.H. Kankal, learned AGP, Maharashtra for respondent Nos.1 and 2 and Mr. Sohani, learned counsel for respondent No.3.

2. Petitioner claims to be a shareholder-member of a co-operative society called "S.N.Park Co-operative Housing Society Limited" i.e. respondent No.3. As the original complainant, he lodged complaint before the Joint Registrar of Co-operative Societies i.e. respondent

No. 2 alleging non-compliance of various provisions of Maharashtra Co-operative Societies Act, 1960 by the Managing Committee including not holding of Annual General Meeting (AGM).

3. Respondent No.2 by the order dated 1st March, 2019 appointed respondent No.4 as the Authorized Officer to manage the affairs of respondent No.3.

4. Aggrieved by the aforesaid, respondent No.3 preferred a revision petition before the Co-operation Minister, State of Maharashtra. Minister of State, Co-operation Department, Government of Maharashtra passed an order dated 13th August, 2019 staying the order dated 1st March, 2019 passed by respondent No. 2. Aggrieved, present writ petition has been filed .

5. Learned counsel for the petitioner has referred to a Government Order dated 5th June, 2017 of the Government of Maharashtra delineating works of the Cabinet Minister and Minister of State. In so far co-

operative matters are concerned, it is contended that in respect of a co-operative society having more than 100 shareholder members, jurisdiction lies with the Cabinet Minister. Respondent No.3 is a co-operative society having more than 100 members. Therefore, jurisdiction is with the Cabinet Minister; Minister of State in the Co-operation Department could not have exercised jurisdiction and passed the impugned order of stay.

6. On the other hand, learned counsel for respondent No.3 submits that the order passed by the Joint Registrar itself is illegal in as much as the Managing Committee of the co-operative society was disqualified and Authorized Officer appointed without giving adequate opportunity of hearing to respondent No.3. On the jurisdictional issue, he contests the claim of learned counsel for the petitioner by contending that membership of respondent No.3 is well below 100. Therefore, there is no jurisdictional error in passing the interim order by the Minister of State.

7. After hearing learned counsel for the parties and on due consideration, court is of the view that since the revision application is still pending for adjudication by the Co-operation Minister, Government of Maharashtra, it would be just and proper if the revisional authority having jurisdiction decides the revision application one way or the other expeditiously.

8. In the light of the above, respondent No.1 having jurisdiction is directed to decide the revision application filed by respondent No.3 within a period of six weeks from the date of receipt of an authenticated copy of this order. Till such time, interim stay granted on 13th August, 2019 shall continue.

9. Needless to say that during the period interim stay operates, managing committee shall not take any major policy decision.

10. Writ petition is disposed of.

(UJJAL BHUYAN, J.)