

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 6140 OF 2016

Gadchiroli District Labour Contract Co-operative Societies Federation,
Gadchiroli, through its President Shri. Rafiq Rahamatali Panjwani

vs.

The Divisional Joint Registrar, Co-operative Societies, Nagpur, & others

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri. R. S. Kalkar, counsel for petitioner.

Shri. G. N. Khanzode, counsel for respondent No.3.

Smt. Kalyani Deshpande, AGP for respondents No.1 & 2.

CORAM : MANISH PITALE J

DATED : 26/11/2019

By this writ petition, the petitioner has challenged order dated 25/08/2016 passed by the respondent No.1 Divisional Joint Registrar Co-operative Societies, whereby a revision application filed by respondent No.3 has been allowed and order passed by the respondent No.2 District Deputy Registrar cancelling the classification of the respondent No.3 society has been set aside.

2. On a complaint made by certain contractors to the petitioner federation, a resolution was passed by the petitioner for taking action against the respondent No.3. On the basis of said resolution, the respondent No.2 issued order dated 13/10/2015, cancelling the classification of the respondent No.3 society. This was challenged by way of filing the said revision application. The petitioner filed an

application for intervention in the said proceeding, which was allowed by order dated 09/02/2016. A perusal of the impugned order passed by the respondent No.1, shows that when the revision application was heard on 16/08/2016, the counsel representing the petitioner was not present. The respondent No.1 considered the revision application filed by the respondent No.3 on merits and it found that on the basis of the material on record, the complaint filed against the respondent No.3 was without any substance and that in any case, only on the resolution passed by the petitioner federation, the respondent No.2 had taken drastic action of cancellation of classification of the respondent No.3 society without affording any opportunity to the respondent No.3 to meet the allegations made in the complaint against it.

3. The learned counsel appearing for the petitioner submitted that once the intervention application of the petitioner was allowed, the respondent No.1 could not have finally disposed of the revision application filed by the respondent No.3, without granting opportunity of hearing to the petitioner. It was contended that the practice followed by the office of the respondent No.1 was that once the matter was closed for order, the date of order was never communicated and no Roznama was written, due to which, the petitioner was not even aware about the impugned order passed by the respondent No.1. On this basis, it was submitted that the impugned order deserved to be set aside.

4. It is interesting to note that the impugned order

in the present case is dated 25/08/2016, the present writ petition was filed on 19/09/2016 and when it was listed for the first time before this Court on 19/10/2016, it was adjourned to be listed after diwali vacation 2016 at the request of the learned counsel appearing for respondent No.3.

5. Thereafter, there is nothing on record to show that any effort was ever made by the learned counsel appearing for the petitioner to get the present writ petition circulated or listed for hearing before this Court. It is a matter of record that the present writ petition has been listed today on 26/11/2019 i.e. after more than three years of the first date of listing. This indicates the level of interest that the petitioner has shown in pursuing the present petition.

6. Be that as it may, a perusal of the impugned order would show that the learned counsel representing the petitioner federation was not present before the respondent No.1 when hearing was taken on 16/08/2016. There is no material produced on record or even averment made specifically to contend that neither the petitioner, nor its counsel were unaware about the date of hearing i.e. 16/08/2016 fixed before the respondent No.1. Therefore, it would not lie in the mouth of the petitioner to raise a grievance in that regard.

7. Even on the question of merits of the order passed by respondent No.1, a perusal of the order shows that

the revision application of respondent No.3 was allowed on the ground that the respondent No.1 authority violated the principles of natural justice, while passing the order of cancelling the classification of the respondent No.3 society, inasmuch as no notice was ever issued to the respondent No.3 before such a drastic order was passed. The respondent No.1 also found that on an analysis of the documents on record, the complaint itself appeared to be frivolous and without any substance, indicating that the resolution passed by the petitioner federation was not proper. A perusal of the impugned order does not show that any grave error was committed by the respondent No.1, while passing the same. The petitioner has not been able to make out any case for interfering with the said order in writ jurisdiction.

8. In view of the above, the writ petition is dismissed.

JUDGE