

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

Writ Petition No. 5925 of 2018
(Pundlik Devlal Arbat .vs. District Deputy Registrar, Co-op. Societies, Akola and others)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders or directions Court's or Judge's orders.
 and Registrar's orders

Mr. C.A. Babrekar, Advocate for Petitioner.
 Mr. K.L. Dharmadhikari, AGP for Respondent Nos. 1 & 2.
 Mr. A.S. Kilor, Advocate for Respondent Nos. 4 to 12.

CORAM : Manish Pitale, J.
DATED : January 21, 2019.

By this writ petition, the petitioner has challenged notice dated 31.08.2018 issued by the respondent no.1 District Deputy Registrar, Co-operative Societies, Akola, on the question of motion of no confidence against the petitioner as he was the President of the Telhara Taluka Sahakari Shetki Kharedi Vikri Sanstha Ltd., a society registered under the provisions of the Maharashtra Co-operative Societies Act, 1960.

2. In the writ petition, the following statements have been made:-

“3. It is further submitted that the respondent no.3 society there are two political groups. The respondent no.4 to 12 were not cooperating in administration of the society to the petitioner and always created hurdles in smooth running of society, therefore, the petitioner had taken decision to resign from the Post of President of the Society. Therefore, the petitioner on

31.07.2018, himself given the resignation of the post of President of respondent no.3, society to the Assistant Registrar Co-operative Society, Telhara. The copy of resignation dated 31.7.2018 is annexed herewith and marked as **ANNEXURE-2**.

4. That, the respondent no.2 on the same day accepted the resignation of the petitioner and thereafter, the post of President is vacant as it is accepted by the respondent no.2, the communication accepting the resignation of the petitioner on the same day i.e. 31.07.2018, is given to District Deputy Registrar Co-operative Society, Akola. The communication dated 31.07.2018 by Assistant Registrar i.e. respondent no.2 to respondent no.1 District Dy. Registrar is annexed herewith and marked as **ANNEXURE-3**.

6. That, it is submitted that, in order to humiliate the petitioner the respondent no. 4 to 12 submitted the resolution about no confidence motion UNDER Section 73(1)(D) of Maharashtra Cooperative Societies Act, 1960, against the petitioner on 31.8.2018 to respondent no.1 District Deputy Registrar of Co-operative Society, Akola. That, the respondent no. 1 & 2 are aware about the resignation of the petitioner from the post of President inspite of this respondent no.1 illegal convey the special meeting on 12.09.2018 vide notice dated 31.08.2018 for taking no confidence motion against the petitioner. The notice dated 31.08.2018 for no confidence motion is annexed herewith and marked as **ANNEXURE-4."**

3. As per the aforesaid statements made in the

writ petition itself, it is evident that the petitioner ceased to be the President of the aforesaid Co-operative Society, because he resigned from the post of the President and such resignation took effect on 31.07.2018 itself. In this situation, notice dated 31.08.2018 for taking no confidence motion against the petitioner was obvious meaningless and stillborn. There was no necessity for such a notice, because as stated by the petitioner himself, on 31.07.2018 the post of President became vacant.

4. By pointing out the aforesaid statements made in the writ petition, the learned counsel appearing for the contesting respondents submitted that this writ petition could be allowed in the light of the aforesaid submissions and that a direction be given to respondent nos. 1 and 2 to hold election for the post of President of the respondent no.3 Co-operative Society.

5. The learned counsel for the petitioners submits that the petitioner stands by the statements made in the above quoted paragraphs of the writ petition. In the light of these circumstances, the writ petition is allowed, the notice dated 31.08.2018 issued by the respondent no.1 is quashed and set aside. It is held that since the petitioner has resigned from the post of President of the respondent no.3 Co-operative Society, vacancy arose even before the impugned notice was issued. Therefore, respondent nos. 1 and 2 shall now take immediate steps for conducting election for the post of President of the respondent no.3 Co-

operative Society and this exercise shall be completed by the said respondents within a period of four weeks from today.

JUDGE

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