

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

WRIT PETITION NO. 894 OF 2019

Waheed Hasanmiyan Mukadam	..Petitioner.
Versus	
The State of Maharashtra & Ors.	..Respondents.

Mr. Anil Kumar Patil, Advocate for Petitioner.
Mr. S. H. Kankal, A.G.P. for Respondent Nos.1 to 3.
Ms. Neha Parte i/b. Umakant L. Kendre, Advocate for
Respondent No.4.

CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.
DATED : 15th JANUARY, 2020.

PC :

1. Heard the learned counsel for the parties.
2. By this writ petition under Article 226 of the Constitution of India, the petitioner is seeking direction against the respondents to take appropriate action against Phansop Macchimar Co-operative Society Ltd., old Phansop, Ratnagiri, for misappropriation and mismanagement.
3. Learned A.G.P. Mr. Kankal, appearing on behalf of the respondent Nos.1 to 3 submits that the writ petition as it filed by the petitioner is not maintainable before this court.

He submits that the petitioner is not a member of the said Society, therefore, there is no question of filing any application under section 83 of the Maharashtra Co-Operative Societies Act 1960. He submits that our own High court in the matter of *Ashok Shah & Ors. Vs. State of Maharashtra & Ors. reported in 2011(3) ALL MR 805* held that, the authority can take action on its own i.e. suomoto and/or on an application filed by 1/3rd members of the said society; and as per amended provision 1/5th members. He relies on paragraph 7 of the said judgment, which reads thus:

“7. In my view, not only the Registrar but there are officers who are responsible and have various obligations under the Act who are bound to look into the affairs of the society from time to time. Therefore, the Registrar can take note of information so received and may of his own proceed to hold the enquiry. In the present case, it is based upon the complaint. Therefore it is necessary that such application or complaint should be supported by one-third of the members of the society. The aspect that some members or one member is against the particular action of the society/managing committee, that itself should not be the reason to invoke the provisions of Section 83 of the M.C.S. Act. But if an application is filed by the requisite members of the society, the Registrar is under obligation to take action as contemplated.”

4. We have heard both the sides at length. Admittedly, the present petitioner is not a member of Phansop Macchimar Co-operative Society Ltd. Hence, he is not competent to file

the application U/s.83 of M.C.S. Act.

5. On this ground only, the Writ petition stands dismissed.

6. No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)
