IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6828 OF 2021
WRIT PETITION (ST) NO.3556 OF 2021
WRIT PETITION (ST) NO.3557 OF 2021
WRIT PETITION (ST) NO.3558 OF 2021
WRIT PETITION (ST) NO.3497 OF 2021
WRIT PETITION (ST) NO.3559 OF 2021
WRIT PETITION (ST) NO.3561 OF 2021
WRIT PETITION (ST) NO.3562 OF 2021

Jay Malhar Sahakari Dudh Utpadak
Sanstha Mydt.
At-Nanoli, Post-Kamshet Tal.Maval,
Dist-Pune through its Chairman
Mr. Vilas Dattu Dhumal. ... Petitioner

Vs.

The Divisional Deputy Registrar,
Co-op. Societies (Dairy) and Ors. ... Respondents

WITH
WRIT PETITION NO.4537 OF 2021
WRIT PETITION NO.6852 OF 2021
WRIT PETITION NO.6856 OF 2021
WRIT PETITION NO.6853 OF 2021
WRIT PETITION NO.6855 OF 2021
WRIT PETITION NO.6829 OF 2021
WRIT PETITION NO.6831 OF 2021
WRIT PETITION NO.6832 OF 2021
WRIT PETITION NO.6833 OF 2021
WRIT PETITION NO.6834 OF 2021

WRIT PETITION NO.6835 OF 2021
WRIT PETITION NO.6836 OF 2021
WRIT PETITION NO.6838 OF 2021
WRIT PETITION NO. 6839 OF 2021
WRIT PETITION NO.6840 OF 2021
WRIT PETITION NO.6843 OF 2021
WRIT PETITION NO.6841 OF 2021
WRIT PETITION NO.6851 OF 2021
WRIT PETITION NO.6842 OF 2021
WRIT PETITION NO.6854 OF 2021
WRIT PETITION NO.6844 OF 2021

Shivshankar Sahakari Dudh Utpadak
Sanstha Maryadit ... Petitioner
Vs.
The Joint Registrar,
Co-op. Societies (Dairy In-Charge) and Ors. ... Respondents

WITH
WRIT PETITION NO.6845 OF 2021
WRIT PETITION NO.6847 OF 2021
WRIT PETITION (ST) NO.4163 OF 2021
WRIT PETITION NO.6849 OF 2021
WRIT PETITION NO.6850 OF 2021

Hanuman Sahakari Dudh Utpadak ... Petitioners
Sanstha and Ors.
Vs.
The Joint Registrar,
Co-op. Societies (Dairy In-Charge) and Ors. ... Respondents

Mr. Y. S. Jahagirdar, Sr. Advocate, i/b. Mr. V. H. Narvekar for the petitioner in WP/6828/2021.

Mr. Surel Shah i/b. Mr. V. H. Narvekar in all other petitions for all other petitioners.

Mr. Surel Shah i/b. Mr. V. H. Narvekar for the petitioner in WP/6825/2021, 3497, 3556, 3557, 3558, 3559, 3561, 3562/2021.

Mr. V. H. Narvekar for the petitioner in all other Writ Petitions.

Mr. S. D. Rayrikar, AGP in WP/4537/2021.

Mr. A.P. Vanarse, AGP, for the State in WP/6855/2021.

Mr. Aadesh M. Patil i/b. Mr. M. B. Patil for Respondent – Federal Society in all Writ Petitions.

Mr. Akshay Kapadia for Respondent No. 4 in all Writ Petitions except WP/6828/2021.

Mr. Prashant Naik i/b. Mr. S. R. Waghmare for Respondent nos. 3 to 10 in WP/6828/2021.

CORAM : A. K. MENON, J.
DATED : 25TH OCTOBER, 2021.

P.C. :

1. This common order disposes all the above Writ Petitions. They can broadly be divided into groups. The first set of Writ Petitions are for brevity sake described as the "Jay Malhar Group." It consists of 8 petitions where the affected contesting respondents

are respondent nos.3 to 10 named Lok Mangal, Sahyadri, Ganesh, Sharad, Kapila and Shriram, all of which are Co-operative Societies engaged at the material time in the dairy business. The next group of 21 Writ Petitions are filed by Shivshankar Sahkari Dudh Utpadak Sanstha Maryadit. This is described for brevity sake as a "Shivshankar Group". The third group of 5 Writ petitions are filed by Hanuman Sahkari Dudh Utpadak Sanstha Maryadit, for brevity sake referred to as the "Hanuman Group". The factual aspects in these matters all being similar they are clubbed together and were circulated for hearing. At the hearing of these petitions, all concerned agreed that the petitions could be disposed finally. Accordingly, they are all admitted. Rule is issued. Rule is made returnable forthwith and the matters are taken up forthwith for final hearing.

2. The challenges in each of these group of petitions contain minor differences but effectively in the Jay Malhar Group, the petitioner challenges the letter dated 21st December, 2020 issued by the Divisional Deputy Registrar of Co-operative Societies (Dairy) Pune Division directing respondent no.2 Sangh being the Pune Zilha Sahkari Dudh Utpadak Sangh Maryadit to restore membership of respondent nos.3 to 10 all of which were milk

producing societies as aforesaid. The petitioner in this case is a primary Dairy Co-operative Society, a body corporate. Respondent no.2 is in the business of production of sale of milk and other allied products. Respondent nos.3 to 10 are primary dairy societies and there is no dispute that all of them are subject to the writ jurisdiction of the court.

3. As and by way of factual background it may be mentioned that the respondent nos.3 to 10 were entitled to membership of respondent no.2 which is the federal society in view of their business of production and supply of milk and the disputes are said to have arisen. At the material time upon respondent nos.3 to 10 having failed to supply milk and comply with the bye-laws of respondent no.2, despite having become members thereof they have been ordered to be wound up. The petitioner is a member of the Sangh as well and is said to be in the business of regularly supplying milk to the said Sangh during the period 2014-15 to 2019-2020.

4. The respondent no.2 had found that the respondent nos.3 to 10 had not supplied the requisite quantities of milk and had failed to function in accordance with the Act and file annual returns. The

Assistant Registrar of Co-operative Societies after following due process, had passed orders of liquidation and cancellation of registration of these respondent nos.3 to 10. These orders were passed on different dates between 30th March, 2013 and 15th March, 2019. A chart containing the respective dates of liquidation and cancellation of membership tendered across the bar is reproduced below;

CHART IN WRIT PETITION NO.6828 OF 2021

Sr. No.	Name of the Respondent Societies	Date of Final Liquidation	Membership Cancellation
1.	Lokmangal (Respondent No.3)	03.08.2004	25.08.2004
2.	Sahyadri (Respondent No.4)	19.09.2017	26.09.2017
3.	Ganesh (Respondent No.5)	19.09.2017	26.09.2017
4.	Sadguru Samartha (Respondent No.6)	01.11.2013	24.12.2013
5.	Sharad (Respondent No.7)	19.09.2017	22.06.2009
6.	Priyadarshani Mahila (Respondent No.8)	01.11.2013	24.12.2013
7.	Kapila (Respondent No.9)	19.09.2017	26.09.2017
8.	Shriram (Respondent No.10)	08.05.2019	22.06.2009

.	WP No.	Name of the Respondent Society	Date of Final Liquidation	Registration Cancellation	Membership Cancellation
1.	4537/2021	Shivanjali	22.12.2016		28.12.2016
2.	6852/2021	Bapdev	03.05.2016		29.06.2016
3.	6856/2021	Ranubai Mahila	22.12.2016	29.06.2018	28.12.2016
4.	6853/2021	Bhairavnath Shinde Vasuli	22.12.2016		Not a member
5.	6829/2021	Shri Kalbhairavn-ath Shendurli	27.12.2019		29.12.2019
6.	6855/2021	Hanuman Devoshi	26.10.2018		30.10.2018
7.	6831/2021	Bhairavnath Ghotvadi	26.10.2018		30.10.2018
8.	6832/2021	Shree Sant Dyaneshwar	29.06.2017		30.06.2017
9.	6833/2021	Vahagaon	18.06.2018	21.09.2018	Not a member
10.	6834/2021	Indrayani	29.06.2017		Not a member
11.	6835/2021	Sou. Shantabai Dhandre	26.10.2018		30.10.2018
12.	6836/2021	Vetaleshwar	12.03.2019	21.09.2018	22.03.2019
13.	6838/2021	Sant Eknath	03.05.2016		Not a member
14.	6839/2021	Shree Sai	31.10.2017	29.06.2018	29.11.2017
15.	6840/2021	Mahadevi	22.12.2016	29.06.2018	28.12.2016
16.	6843/2021	Gavalibaba	17.10.2016	29.06.2018	29.11.2016
17.	6841/2021	Sant Sena	26.10.2018		30.10.2018
18.	6851/2021	Hanuman Kalmodi	26.10.2018		30.10.2018
19.	6842/2021	Shree Bhairavnath Kranti Mahila	29.06.2017	29.06.2018	30.06.2017
20.	6854/2021	Chainchmai Mahila	29.06.2017	29.06.2018	28.12.2018

21.	6844/2021	Mhatoba	03.05.2016		29.06.2016

Sr. No.	WP No.	Name of the Respondent No.3 Society	Date of Final Liquidation	Membership Cancellation
1.	6845/2021	Swami Samartha	24.09.2019	26.11.2019
2.	6847 /2021	Mahilavikas Mahila	24.01.2020	24.02.2020
3.	St. No. 4163 / 2021	Malubai	08.05.2019	29.12.2019
4.	6849/2021	Trimurti	05.11.2019	26.11.2019
5.	6850/2021	Vadeshwar	27.12.2019	29.12.2019

5. The core issue that arises in these petitions is the entitlement of the societies to take part in elections which were initially Scheduled to be held in June 2020 but were postponed from time to time. Presently the elections are scheduled to be held in the forthcoming week and the process said to have begun on 31st August, 2021. By virtue of their liquidation and subsequent cessation of membership, it is the petitioners case that respondent nos.3 to 10 were not entitled to participate in the elections. However, to the shock and surprise of the petitioners, by orders dated 4th December, 2020 or thereabout the Joint Registrar of Co-operative Societies, in Revision Applications no.38 to 45 of 2020 set aside the liquidation orders without notice to the liquidator or the Sangh. The challenge is to the suo-moto restitution of

membership initiated by the respondent no.1 apparently to please the respondent nos. 3 to 10 societies, who are stated to enjoy political patronage of some nature.

6. Mr. Jahagirdar, the learned Senior Advocate appearing in support of the petitioner has contended that the Sangh respondent no.1 is the Registrar of Federal Society i.e. the respondent no.2 which acquires jurisdiction under Section 22(2) and 23(2) of the Maharashtra Co-operative Societies Act to decide the question of membership and/or deemed membership. However, in the present case, without any application from the respondents, the respondent no.1 has suo moto exercise this jurisdiction and had restored the membership and set aside the orders of liquidation.

7. In the normal course, unless the order of liquidation was set aside after hearing all concerned, this could not have been done. However, in the present case, the directions restoring membership and setting aside of the liquidation, was passed on or about 21st December, 2020. They were served upon the Sangh on or about the same date and the petitioner is said to have learnt of the same on 23rd December, 2020 when the Chairman of the Sangh had called an Annual General Meeting and revealed that the Executive

Director had informed him that respondent no.1 had issued the impugned directions. The petitioner has claimed that it has the necessary locus to present this petition as a vigilant member of the Sangh and therefore there is no occasion to dispute the petitioners entitlement to approach this court.

8. It is contended by Mr. Jahagirdar that a party aggrieved by directions in the ordinary course, may file an appeal, even when it is not a party to the original party but there is petitioner being a third party has ought to file this writ petition and unless appropriate relief is granted, the gross illegality committed by the first respondent would be perpetuated. The rules of natural justice have been denied to the parties in question and the petitioner is an active member of the respondent no.2 Sangh has been now empowered by resolution to challenge the directions issued by the respondent no.1. References were made to the fact that the whole process of restoration of membership and setting aside orders of liquidation was initiated with the sole purpose of enabling participation in the forthcoming elections. The respondent nos.3 to 10 have no interest in supplying milk in fact they are not supplying milk and have not been supplying milk for a long time.

9. Mr. Jahagirdar therefore submits that rule issued be made absolute and the impugned order dated 21st December, 2020 be set aside and the applications dated 9th December, 2020 referred by the respondent nos.3 to 10 be dismissed. Mr. Jahagirdar submitted that the orders passed are in gross violation of law. Inviting my attention to Chapter X of the MCS Act is submitted that the process of liquidation is dealt with in detail in Sections 102 to 109 and in the present case the respondent nos.3 to 10 were required to file an appeal against the order of winding up as contemplated in Section 104 but this has been given a go-by. No appeal has been filed and the respondents concerned have proceeded to file revision applications and that too only on 20th November, 2020. The Revisions Applications were heard on 25th November, 2020 exparte and closed for orders. Thereafter orders were passed without notice to the liquidator.

10. Inviting my attention to the impugned orders, dated 1st December, 2020 at Exhibit J Collectively and the impugned order at Exhibit 'K' dated 21st December, 2020, Mr. Jahagirdar submitted that these orders are unsustainable, in view of the breach of express provisions of law, failure to give an opportunity

of being heard, thus, leading to violation of rules of natural justice and there being no challenge by way of an appeal. He therefore submitted that the petitioners are entitled to challenge these orders specially since the petitioners are from the same area as that of respondent nos.3 to 10 and has been regularly taking part in the business and management of the Sangh by supplying milk throughout the period 2014-15 to 2019-20. The petitioners also secured a B Audit Class for the years 2018-19 and as such fully entitled to the reliefs sought in these petitions. Finally he submitted that the collection of milk from these respondents had stopped long ago. The order dated 21st December, was completely without jurisdiction and deserves to be set aside.

11. Mr. Naik, the learned counsel appearing for respondent nos.3 to 10 opposed the petition firstly by contending that the petitioner had no locus to file the present petition. In fact, according to him, the order of liquidation and cessation of membership itself was passed without notice to the respondent. The respondents had no knowledge of the same and the orders were passed in violation of principles of natural justice. He therefore submitted that the orders passed in the revision are sustainable in view of the fact that they had no knowledge of the

orders upon being passed. No appeal could have been filed within time and therefore the revision applications, invoking the revisionary powers was the only alternative. He submitted that the Registrar was fully empowered to decide the issue in question by virtue of his powers under Section 11 of the MCS Act and whether or not respondents had suffered a disqualification or not would have been decided by the registrar. The fact remains that in the instant case, the order passed was akin to a suo moto order and within five days of the revision applications being made. The haste in passing the orders is thus prima facie obvious. Mr. Naik however sought to assure the court that there is no attempt at prejudging the issue and the respondent concerned had already been supplying milk and continued to supply milk.

12. Mr. Naik further submitted that the main orders have not been challenged and only the consequential orders have been challenged and therefore he submits that there is no occasion to entertain this petition. Firstly for want of locus, secondly by reason that the main orders are still not challenged in the present petition, however, he fairly admits that a separate set of petitions are said to have been filed challenging those orders.

13. Mr Naik placed reliance on the decisions of the Supreme Court in the case of *O.P. Chaudhry v/s. Rehabilitation Ministry Employees' Co-operative House Building Society and others*[1] in support of his contention that in the case of expulsion of a member, the expulsion notice and the resolutions passed by the society having been set aside, the membership would automatically be restored in the original seniority and assigning seniority from a subsequent date was not sustainable. Once an order of expulsion was set aside, it has no existence in the eyes of law and cannot be taken notice of for depriving the petitioner of his original seniority. Relying upon this aspect, Mr. Naik sought to submit that in present case, once the order of liquidation and the cancellation of membership have been set aside by the impugned order, the membership revives and the respondent were entitled to exercise all their rights as members.

14. Mr. Naik then relied on decision of a Division Bench of this court in the case of *Chandrapur Zilla Sahakari Krushi and Gramin Bahuudeshiya Development Bank Ltd. v/s. State of Maharashtra & others*[2] in support of his contention that the registrar was not empowered to pass the impugned order exparte

1 (2003) 10 SCC 170
2 2003 AIR Bom. 502

even at an interim stage and without hearing the society and without considering the consequences that may face the society by virtue of such interim order.

15. According to Mr. Naik, the respondent nos.3 to 10 were primary societies were taken into liquidation pursuant to an order under Section 102 and the liquidator is appointed between the years 2004 and 2009. The order of liquidation resulted in de-registration of the societies under Section 21-A of the Act but both the interim order and the final order of liquidation were not served upon the respondents. These were, thus, exparte orders without hearing the societies and the orders of liquidation are yet to be served upon respondent nos.3 to 10. It is in these circumstances that in November 2020, the respondent nos.3 to 10 filed revisions application before the Joint Registrar challenging the orders of liquidation and cancellation of registration.

16. No appeal was filed since proviso to Section 104 provides that no appeal shall lie against an order issued under Section 102(1) (i) to (iii). Thus, according to Mr. Naik the revision was competent and an appropriate order was passed. Even otherwise he submits that on 4th December, 2020, the orders of liquidation

were set aside by the Joint Registrar in view of the fact that they were exparte and without hearing the respondents nos.3 to 10 and in violation of the principles of the natural justice. On 9th December, 2020 respondent nos.3 to 10 had applied for restoration of membership which was then allowed. A consequential order was passed by respondent no.1 issuing directions to the 2nd respondent to continue the membership of respondent nos.3 to 10 in the Sangh. He therefore contended that an appeal not being maintainable, by virtue of an order being passed under Section 102(1)(c)(ii) revision was in the alternative and that right has been exercised.

17. Mr. Naik further submitted that the petitions are not maintainable since the petitioner is a mere interloper and is not entitled to maintain the petition reverting to the basic challenge of want of locus standi. Mr. Naik further submitted that the petitioners only interest is to deprive respondent nos.3 to 10 from participating in the ensuing elections and that the petitioner will be directed to file an election dispute. Mr. Naik therefore called for dismissal of these petitions on the aforesaid grounds.

18. In the second set of matters forming part of the Shivshankar

Group in Writ Petitions no.6852, 3497, 3556, 3557, 3558, 3559, 3561 and 3562 Mr. Shah in support of the petitions adopted all the submissions made by Mr. Jahagirdar in support of the first set of petitions. He submitted that impugned orders are dated 18th January, 2021. It sets aside the interim and final orders of liquidation dated 17th October, 2016 and 22nd December, 2016 respectively of the third respondent society. These orders were passed by respondent no.2 Assistant Registrar of Co-operative Societies in exercise of powers under Section 102 of the MCS Act. The petitioners are primary dairy co-operative societies and have been functioning as such. They have been engaged in the business of supply of milk and have been granted membership in view thereof. The petitioner is an active member of the Sangh since 1985 and secured a 'B' Audit Class for the years 2018-19. The petitioner has been regularly supplying milk for the period 2015-16 to 2019-20 and during April 2020 to December 2020. He has relied upon the certification of quantity supplied.

19. As far as the contesting respondent is concerned, Mr. Shah submitted that the respondent no.3 did not supply milk since August 2015 and a final order of liquidation has been passed in terms of the bye-laws and as such it is dis-entitled to continue as

a member. It is now seeking to participate in elections, despite cancellation of such membership not because the respondent has been regularly supplying milk but only with a view to participate in the said election. He submitted that no audit has been carried out of the said respondents and they are in breach of the provisions of Section 102(1) and (2) and (4). Furthermore, he submits that only an appeal was maintainable and not a revision as contemplated under Section 154. The respondent has misused the provisions pertaining to the revisionary powers of the State Government and the Registrar and not ought to be permitted to read the benefits thereof. He therefore sought setting aside of the impugned order. Even upon the final order being set aside, the interim orders would revive and the interim orders could have been passed and not require any notice to be given to the respondent society. Moreover, he submits that the impugned order has been passed by a person who was holding charge and was not clothed with the jurisdiction to pass the order. He therefore submitted that for the reasons aforesaid the impugned orders are liable to be set aside and the petition is liable to be allowed. He submitted that the very same arguments be taken as his submissions in the other matters in the group.

20. In the third group of petitions involved in the Hanuman Sahakari Dudh Utpadak Sanstha which is respondent no.3, represented by Mr. Kapadia. The petitioner is represented by Mr. Narvekar. Even in that case, final orders of liquidation were passed in or around 26th October, 2018 since the third respondent society had failed to supply the requisite quantity of milk. The liquidation order resulted in the cancellation of membership of the 3rd respondent on 30th October, 2018. Respondent no.3 meanwhile in albeit to participate in the elections had along with other respondents against whom orders of liquidation had been passed while revisions applications in December 2020 and in or about 9th December 2020, the respondents filed applications for condonation of delay. The Joint Registrar (Dairy) Incharge set aside the orders of liquidation on 18th January, 2021 and the 3rd respondent then applied to the Assistant Registrar of Co-operative Societies seeking directions against the Sangh to permit supply of milk. Applications came to be filed challenging the aforesaid order of 18th January 2021. He therefore submitted that the impugned order be set aside.

21. Mr. Kapadia, however, appearing on behalf of respondent no.3 and respondent no.4 in some cases oppose the application on

the basis of want of locus. He submitted that there was no locus for petitioners to approach this court as they were not persons aggrieved and the applications for setting aside orders for liquidation was justified. The filing of the revision application was the only route available to it and on 9th December, 2020 such revision applications were filed. On a query from the court, Mr. Kapadia fairly submitted that the orders for liquidation were passed sometime in October 2018 and no steps were taken to file an appeal at the relevant time. According to him, for want of knowledge for about 3 to 6 months, the respondent no.3 had no knowledge of these orders being passed in this respect.

22. On a query from the court as to whether there were any reasons that had been specified for not having filed appeal within time, Mr. Kapadia fairly submitted that he has no instructions on that aspect. However, he persisted in his submission that the petitions were bad for want of locus. In a separate and distinct submission, Mr. Kapadia canvassed the point that in the present set of matters, the liquidator was also made a party and hence the question of notice not being issued to the liquidator at the time of setting aside the order of liquidation is not an issue that can be agitated by the petitioner.

23. Inviting my attention to the affidavit on behalf of respondent no.3 dated 3rd October, 2021 Mr. Kapadia submitted that the writ petition is required to be dismissed in view of the preliminary objection to maintainability of the writ petition. The petitioner is from a different Gram Panchayat Kudeburduk whereas the respondent society was from a different Gram Panchayat. Thus, the respondents being permitted to participate in the election could not affect the petitioner. The challenge is said to be malicious as a result of political rivalry and ill motivated. Apart from the issue of locus, the respondent no.3 could not supply milk for a particular period and it is now supplying milk and is willing to continue to supply milk and therefore is entitled to membership of the Sangh. It is contended that the Sangh has issued a notice by following due process of law under Section 26(2)(B) It is contended that the petitioners claim of the notice being in violation of the bye-laws is incorrect and that reason is not sustainable. The impugned order though passed by a person in charge, the order is valid and powers identical to the appropriate authority could have been issued. The respondent no.3 was even otherwise entitled to be brought out of liquidation and there was no merit in the contention that the order passed

was exparte and without notice to liquidator.

24. According to Mr. Kapadia notice of liquidator would have served no purpose since the liquidator was never informed of his appointment. This is once again a contentious aspect which involved disputed questions of fact and cannot be gone into in this writ petition. However, the submission on behalf of the 3rd respondent is to the effect that the petitioner has essentially no locus and cannot seek any relief in this petition. For these reasons, Mr. Kapadia submits that the petition be rejected.

25. On behalf of the petitioners, their submissions have been reiterated. The 1st respondents are represented by the learned Additional Government Pleaders Mr. Rayrikar and Mr. Vanarse who have relied upon affidavits filed in Writ Petition no.29 of 2021 of one Sunil Uttareshwar Shirapurkar. In which it is contended that he is duly empowered to oppose the admission of the petition that he had given the directions to respondent no.2 Sangh regarding continuation of membership of respondent nos.3 to 10 in Writ Petition no.6828 of 2021 that these are administrative directions for continuation of membership and he has generally denied allegations that the impugned orders are

without jurisdiction unwarranted or malafide.

26. In Writ Petition No.6828 of 2021 respondent no.2 Federal Society, the Sangh has also filed an affidavit of Dr. Vivek Hinudrao Shirsagar in which it is stated that the respondent nos.3 to 10 have been ordered to be wound up between 2013 and 2019. That the challenge to these orders of liquidation has only surfaced after the election programme of the first phase of the Sangh has been declared and when resolutions regarding the representative of the member society was called for. These revision applications bearing nos.38 to 45 of 2020 were filed only on 25th November, 2020 and on 4th December, 2020, the Joint Registrar passed common orders in all these applications quashing exparte the interim and final orders of liquidation of these societies. This he submits is passed without any objection being called from the Sangh or the Liquidator, thus, without notice to the concerned parties.

27. The deponent has stated that upon removal of the names of the respondents by the Federal Society from its members registers, the share subscription amounts of the societies were transferred to the 'Share Anamat' and hence these subscriptions are presently

not with the Federal society. Once it is transferred to the Anamat account, the liquidator of the societies would take charge. Furthermore, it is stated on oath that the respondent nos.3 to 10 were not supplying the requisite quantity of milk and that failed to comply with the bye-laws including bye-law 7.1 and thus stands qualified. That the respondents concerned should have first approach the Federal Society for grant of fresh membership which could have been considered on the basis of the applications in each case. However, that has not been done and the daily report of milk supply maintained by the society evidencing the fact that the respondent no.3 to 10 have not supplied any milk to the Federation. This is an aspect which I find has not been denied by the respondent nos.3 to 10 in the Jay Malhar Group. Thus the affidavit dated 23rd February, 2021 filed on behalf of Federation assumes significance.

28. That apart in the other three sets of matters, I have already made reference to the affidavit of Sanjay Khandu Gopale dated 3rd October, 2021 and Mr. Kapadia has placed reliance upon identical affidavits seen to be filed in Writ Petition no.4537 of 2021 in the Shivshankar Group by one Abhinath Shantaram Shende, Chairman of the respondent no.3. They are worded

identically and affirmed on the same date. Likewise in the Writ Petition no.6852 of 2021 pertaining to the Shivshankar Group the affidavit of respondent no.3 is of one Sanjay Jeejaram Konkane, Chairman of respondent no.3, once again identically worded and affirmed on the same date. Thus, having dealt with the contentions in the affidavits, in the case of Writ Petition no.6851 of 2021 and canvassed by Mr. Kapadia, there is no occasion to once again deal with these multiple affidavits which are identical in their content.

29. Having heard the learned counsel for all the parties, I propose to initially deal with the issue of locus which has been raised as the principal defence and as a preliminary point of opposition. On the aspect of locus standi, the Supreme Court has shifted from the strict interpretation regarding locus standi, reference being had to the case of *Jasbhai Motibhai Desai v/s. Roshan Kumar*[3] in which the Supreme Court observed that there were roughly three categories of persons way away locus standi, (i) being a person aggrieved, (ii) a stranger and (iii) a busy body or a meddlesome interloper. The respondents in these present petitions seek to persuade me to hold that the present petitioners

3 (1976) 1 SCC 671

are mere interlopers. However, the four judge bench of the Supreme Court in Jasbhai Motibhai Desai (supra) held that a person belonging to the third category that is an interloper can easily be distinguishable and such a person interferes in things which do not concerned him as he masquerades as a crusader of justice and that the High Court should do well to reject such petitions of busybodies at the threshold.

30. In a more recent judgment, the Supreme Court in the case of *Chairman Railway Board v/s. Chandrima Das*[4] observed that albeit in the era of Public Interest Litigation that the court in its various judgments has given new meaning to the concept of locus standi, reference being had to the judgment in *People's Union for Democratic Rights v/s. Union of India*[5] wherein it was laid down that a public interest litigation could be initiated not only be filing formal petitions but even sending letters and telegrams was to provide easy access to the court. Likewise in *Bangalore Medical Trust v/s. B.S. Muddappa*[6].

31. Thus in these cases, although the present set of petitions are not PILs, the tendency is to adopt a wider approach on the aspect

4 2002 SCC 465
5 (1983) 3 SCC 235
6 (1991) 5 SCC 54

of locus standi and that is relevant. In the present case, the petitioner is certainly one concerned with the cooperative movement and in the area of dairy development being a cooperative society supplying milk and as set out by the petitioners in the lead petition and I find no justification in holding the petitioners to be interlopers. A Division Bench of this court, in the case of *Prashant s/o of Amrutrao Tayde v/s. Minister for Co-operation and Textile & Ors.*[7] has held that the appellants therein were members of a primary agricultural credit society which was a member of respondent no.3 bank and were associated with a cooperative movement and were interested in the administration of co-operative societies and hence the writ petition was found to be maintainable. Likewise in *M.S Jayaraj v/s. Commissioner of Excise Kerala and others,* the Supreme Court has considered the shift in view on the aspect of locus standi as aforesaid and the concept of locus standi has been expanding.

32. In the present case, there is no reason why the petitioners should be prevented from assailing the impugned orders at the threshold. On a connected front, it would be apposite to mention that the interim orders appointing liquidator may have been

7 (2012) 3 All. MR. 337

passed exparte without notice to the societies concerned. The objection raised by Mr. Kapadia is that no notice of those hearings were given but the interim orders of winding up does not warrant a pre-decisional hearing as contemplated in Section 102. In Section 102, if the registrar is of an opinion that the society ought to be wound up, he may issue an interim order. Whether an opportunity of being heard was to be given at that stage, has been considered in the case of *Gadchiroli Zilla Sahakari Krushi and Grahmin Bahuudeshiya Development Bank Ltd. & anr. v/s. State of Maharashtra & Ors.*[8] whereunder it was held that Section 102 (1) and (2) interim order of winding up did not call for pre-decisional hearing before passing an interim order of winding up. Thus, the contention that rules of natural justice were violated in the first instance when the order of winding up was passed, is not a sustainable ground to question the petitioners' right to impugn the orders in these petitions.

33. For these reasons, the issue of locus standi and the preliminary objection on violation of rules of natural justice while passing the interim orders must be rejected. This brings me to consider the scheme of the Act and Chapter XX in this behalf

8 (2003) 4 All. M.R. 283

clearly holds that the Registrar after holding an enquiry or on receipt of an application made upon resolution of a society can call or of its motion may in cases where the society has ceased working or ceased to comply with conditions as to registration and management under the Co-operative Societies Act, the Registrar may pass an order of winding up.

34. Section 103 provides for appointment of liquidators at the stage after passing an interim order or a final order. Upon such interim order being issued, the officers of the society are required to hand over to the liquidator custody and control of all property. In the facts of the present case, the record does not indicate the process that has been followed but all have admitted that an order of liquidation has been passed. There is a controversy as to whether the liquidator took charge or whether the liquidator informed the societies but suffice it to say that the contentions of the applicants that they are still producing milk and supplying milk has not been made out. Indeed this could not have been done if an order of liquidation had been passed.

35. Section 104 of the Act clearly provides for an appeal against an order of winding up which is to be filed within two months

from the date of issuance of the order. There may be substance in the contention of the respondents that no appeal will lie by virtue of the proviso of Section 104(1), however, even in that case, on merits, I am of the view that there was no occasion to file a revision after a long gap has been demonstrated in the present case. In any event, Section 105(2) provides that the liquidator will not have a right to vote on behalf of the society in liquidation and thus there is no question of of any prejudice being caused to the respondents if the liquidator continues as such in the process of winding up. Likewise the order of restoration of membership is also unsustainable. The argument on behalf of the respondents in particular by Mr. Kapadia that in the case of expulsion upon setting aside the order, membership is automatically restored cannot be countenanced in the present set of facts. Nothing has been shown by the respondents concerned to establish that they continued to supply milk and are qualified to be members of the society. These once again allude to disputed questions of fact which cannot be gone into in a writ petition.

36. This leaves us with question whether these orders can now be sustained. In an interim order passed on 18th January, 2021, the court has directed the respondents to point out under what

authority of law consequential orders restoring membership was passed by the first respondent. Leave was granted to file replies on this aspect as well however, none of the affidavits filed on behalf of the contesting respondents have made an effort to indicate under what authority these orders of restoration of membership came to be passed and how they were justifiable if at all. In these circumstances, I am of the view that the petitioners are bound to succeed and hence I pass the following order;

(i) In Writ Petition no. 6828 of 2021 the order dated 21st December, 2020 and in all connected writ petitions the orders dated 4th December, 2020, orders dated 5th March, 2020 and 18th January, 2021 are quashed and set aside. The directions contained in those orders are also quashed and set aside.

(ii) The applications for continuance of membership in the case of the respondent are rendered ineffective and unsustainable unless and until orders of liquidation is set aside in the usual course and in accordance with the law.

(iii) All applications that are pending will have now have to be considered in the light of the judgment in this group of matters.

(iv) Rule is made absolute in the above terms.

(v) All petitions are disposed.

(vi) No orders as to costs.

(A. K. MENON, J.)