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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2310 OF 2021

Balasaheb A. Newale ...Petitioner
V/s.
State of Maharashtra & Ors. ...Respondents

Mr.Surel S. Shah i/b Mr.V.H. Narvekar for the Petitioner.

Mr.Rajan S. Pawar, AGP for the State – Respondents No.1 and 2.

**CORAM : R.D. DHANUKA &
V.G. BISHT, JJ.**

DATE : 29TH JUNE, 2021.

P.C. :- (THROUGH VIDEO CONFERENCE)

1. Mr.Shah, learned counsel appearing for the petitioner seeks liberty to delete the respondent no.3. Leave to amend is granted to delete the respondent no.3. Amendment to be carried out within one week from today.

2. Rule. Learned AGP waives service for the respondent nos.1 and 2. By consent of the parties, the petition is heard finally.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks an order and direction against the respondent no.2 to forthwith withdraw the show cause notice dated 7th May, 2021 and declaration that the petitioner has not incurred disqualification for being a Director of the respondent no.3 society and he be allowed to continue as Director of the respondent no.3

society.

4. Pursuant to an FIR filed against the petitioner with Kamseth Talke Police Station on 21st February, 2021 under an offence punishable under sections 420, 465, 467, 468 and 471 read with 34 of the Indian Penal Code and in view of the order rejecting bail application of the petitioner, passed by the Additional Sessions Judge vide order dated 18th March, 2021, the petitioner is in Judicial custody.

5. The respondent no.2 has issued a show cause notice under Rule 58 of the Maharashtra Co-operative Societies Rules directing the petitioner to remain present on 3rd June, 2021 which is postponed to 2nd July, 2021 calling upon the petitioner to show cause as to why the petitioner should not be disqualified as a director of the respondent no.3 society. Since the petitioner is in Judicial custody, the petitioner is unable to reply to the said show cause notice dated 7th May, 2021 and to remain present personally before the respondent no.2.

6. Mr.Shah, learned counsel for the petitioner on instruction states that within two weeks of the release of the petitioner on bail, the petitioner would remain present before the respondent no.2 and would file reply to the said show cause notice and thereafter would appear before the respondent no.2 in response to the said show

cause notice within two weeks from the date of filing of the reply to the said show cause notice. Statement is accepted.

7. The respondent no.2 in that event shall decide the said show cause notice on its own merits and in accordance with law. The order that would be passed by the respondent no.2 shall be conveyed to the petitioner within one week from the date of passing of such order. If such order is adverse against the petitioner, the petitioner would be at liberty to file appropriate proceedings.

8. The respondent no.2 shall not proceed with the said show cause notice till the petitioner is released on bail and file reply to the said show cause notice and shall not take any coercive action against the petitioner till the hearing is concluded and for a period of two weeks from the date of communication of the order if the same is adverse against the petitioner.

9. It is made clear that this Court has not expressed any view on the merits of the matter. All contentions of both the parties are kept open.

10. The writ petition is disposed of in aforesaid terms. There shall be no order as to costs.

11. The petitioner shall inform the respondent no.2 about his release on bail within one week from the date of such bail.

(V.G. BISHT, J.)

(R.D. DHANUKA, J.)