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

WRIT PETITION NO. 3655 OF 2021

ANIL GULAB KAWALE & ORS. ..PETITIONERS
VS.
COMMISSIONER OF TEXTILE
MAHARASHTRA STATE NAGPUR AND ORS. ..RESPONDENTS

Mr. Surel Shah i/b. Mr. S.S. Koregave for the petitioners.
Smt. V.S. Nimbalkar, AGP for the State.
Mr. Vijay Patil i/b. Kedar Lad for respondent Nos. 6 to 16 (original complainants).

CORAM : M.S.KARNIK, J.

DATE : AUGUST 10, 2021

P.C.

Heard learned counsel for the petitioners, learned counsel Shri Patil appearing on behalf of the added respondent Nos. 6 to 16 (original complainants) and learned AGP.

2. The Petition is filed challenging an order passed by the Hon'ble Minister refusing to grant an interim stay to the appointment of the administrator over the Co-operative Spinning Mill of which the petitioners are the Managing Committee members. The society was formed in the year 1993. The project was approved for setting up 25,200 spindles. It is alleged that despite the State Government providing adequate funds, the spinning mills did not commence operation.

3. The present Managing Committee was elected sometime in the year 2015. It is contended by the petitioners that at the behest of the local MLA a complaint was made to the Hon'ble Minister. Thereupon the proceedings came to be initiated under Section 78A (1) of the Maharashtra Co-operative Societies Act, 1960 by the Commissioner (Textiles). There have been some proceedings in the interregnum. Suffice it to observe that the order impugned before the Hon'ble Minister was passed by the Commissioner (Textiles) appointing an administrator over the said society. The application for stay made by the petitioners during the pendency of the appeal came to be rejected by the Hon'ble Minister which order is impugned in this Petition.

4. Though the project was sanctioned as far back as in the year 1993, admittedly for long number of years, the spinning mill did not commence actual production / operation. It is the contention of learned counsel for the petitioners that the funds were disbursed in a staggered manner and there were various difficulties which came in the way of starting operations but there was no intent to delay the commencing of operations. Learned counsel submits that it is only in the year 2015, the present Managing Committee was elected. Every possible effort was made by them to make the mill operational. It is only because of the complaint made by the MLA, the inquiry is initiated, is his submission. Learned counsel submits that after much efforts the mill commenced its operation. The petitioners had to face great many difficulties in obtaining an

electricity connection which according to learned counsel was delayed at the behest of local MLA. The electricity supply was connected only about 10 days back and spinning mill has now actually started functioning and made operational. He therefore submits that, as during the pendency of the appeal, now that the mill has actually started functioning, the impugned order passed by the Commissioner appointing an administrator should be stayed as an administrator now taking over charge would cause serious prejudice to the society which has become functional after such a long duration.

5. Learned AGP appearing on behalf of the respondents supported the impugned order. She invited my attention to the reasons mentioned therein. She submits that the petitioners have defaulted at every stage and for the reasons recorded in the order, this is not a fit case where the order passed by the Hon'ble Minister calls for interference.

6. Shri Patil appearing on behalf of the added respondents (original complainants) supported the impugned order. He pointed out that the society was established in the year 1993 and despite the sanction and disbursal of the funds, the petitioners - society which had to set up 25,200 spindles for operating the mill, has in fact set up only 8064 spindles. Learned counsel Shri Patil submits that at every stage the petitioners have failed to abide by the various orders passed to commence the operations. He submits

that even though the petitioners are alleging that the operations have started, but it is on the very small scale and not in terms of the original sanction. He therefore prays for dismissal of the Petition.

7. I have considered the submissions and gone through the impugned order. No doubt, there is a substantial delay on the part of the society in commencing the operation. In fact on 23/10/2018, the Commissioner (Textiles) had taken a stock of the situation and had noted during the course of the hearing that the petitioners have already set up 8064 spindles and that production would be commenced within a period of two months and accordingly, recorded the assurance. Even two years thereafter the production had not commenced. One of the reasons cited is that the electricity connection was not available and the petitioners had great difficulty in getting electricity connection. The Hon'ble Minister in the impugned order noted that he had called for a report of the Deputy Commissioner (Textiles) on 22/10/2020 wherein he had indicated that the electricity connection was not in place and therefore production had not commenced.

8. Though there appears to be some substance in what the respondents are contending, but nonetheless, the electricity connection has now been granted to the said spinning mill and the production has commenced. This has happened post the passing of the impugned order. Considering this fact, as the appeal is

pending, the petitioners need to be protected. The ends of justice would meet if the Hon'ble Minister is requested to decide the appeal itself within a period of 4 weeks from 18/8/2021 and till then the appointment of the administrator is stayed as the spinning mill has actually commenced operation.

9. The impugned order is set aside.

10. I may not be understood to have expressed any opinion on the merits of the controversy and the appeal be decided on its own merits and in accordance with law.

11. The appeal be decided as expeditiously as possible and preferably within a period of four weeks from 18/8/2021. Parties to co-operate.

12. The parties to appear before the Hon'ble Minister on 18/8/2021, at 3.00 p.m., along with the copy of this order.

13. It is made clear that the petitioners should not apply for any loan or hypothecate the goods or machinery or the premises of the spinning mill till the appeal is decided and they shall limit their operation to the production of the yarn and the sale thereof. The petitioners not to take any major policy decision till the disposal of the appeal and shall limit their functioning to carry out day-to-day operation of the spinning mill.

14. The petitioners are allowed to operate the bank accounts but they shall, however, maintain the accounts, which shall be operated for the limited purpose mentioned herein above.

15. The Writ Petition is disposed of.

(M.S.KARNIK, J.)

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