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

**WRIT PETITION NO. 1967 OF 2017
WITH
CIVIL APPLICATION NO. 901 OF 2018
IN
WRIT PETITION NO. 1967 OF 2017**

DONAGAON VIVID KARYAKARI SEVA
SAHKARI SOCIETY ..PETITIONER
vs.

THE STATE OF MAHARASHTRA & ORS. ..RESPONDENTS

Mr. Y.S. Jahagirdar, Senior Advocate i/b. D.D. & Abhijit Assoc. for
petitioner.

Mrs. V.S. Nimbalkar, AGP for the respondent Nos. 1 to 4.

Mr. Suhas Inamdar for respondent No.5.

Mr. B.D. Joshi for respondent No.7.

CORAM : M.S.KARNIK, J.

DATE : FEBRUARY 17, 2021

P.C.:-

Heard learned Senior Advocate for the petitioner, learned
counsel appearing for the respondent No.7 and learned AGP for
respondent Nos. 1 to 4.

2. The challenge in this Petition filed under Section 227 of the
Constitution of India is to an order dated 30/11/2016 passed by
the Hon'ble Minister (Co-operation and Textile) under Section 154
of the Maharashtra Co-operative Societies Act, 1960 (hereinafter
referred to as 'the said Act' for short).

3. The controversy in brief is that the respondent No.7 made a complaint to the concerned authorities under the said Act that there are various irregularities in the functioning of the Solapur District Central Co-operative Bank. On the basis of the complaint and pursuant to the Petitions filed in this Court action was directed to be initiated under the provisions of the said Act.

4. On 11/6/2014 inquiry was initiated under Section 83 of the said Act. Learned Senior Advocate for the petitioner urged that an inquiry under Section 83 of the said Act was to be conducted by the District Deputy Registrar. In his submission, Shri Lavand, the District Deputy Registrar is nominated on the Board of Directors of the said Bank. He submits that the District Deputy Registrar is directly involved in the decision making process and major decisions are taken in his presence in which he has an active role. He therefore submitted that the authorities could not have appointed Shri Lavand as an inquiry officer as he was directly interested in the affairs of the Bank and thus a reasonable possibility of bias in conducting inquiry under Section 83 of the said Act cannot be ruled out. He submits that the District Deputy Registrar would virtually be a judge in his own cause.

5. Learned Senior Advocate submitted that the Hon'ble Minister was in error in holding that as the nominated member Shri Lavand does not have right to vote nor does he have a decisive role in decision making and therefore the allegations of possibility of bias is without substance.

6. Learned AGP and Shri Joshi on the other hand supported the impugned order. Shri Joshi contended that the petitioner is just one of the members of the DCC Bank. In fact according to him, the petitioner – society has no locus to maintain the Petition. According to him, the Chairman of the petitioner – society is representative of the DCC Bank and therefore, any action to be taken pursuant to Section 83 of the said Act and the report is against the Chairman and not against the society in which case the Petition at the instance of the society is not maintainable. Shri Joshi further say that it is pursuant to the complaint made by the respondent No.7 that the irregularities came to light and even this Court in Writ Petition No. 11910 of 2013 and Writ Petition No. 7110 of 2014 took cognizance and directed the authorities to initiate appropriate action against the DCC Bank. Shri Joshi has submitted that at some stage the matter has to be taken to the logical end and since 2013 he has been agitating his grievance.

7. At this stage I do not propose to go into merits of the contentions raised by Shri Joshi or learned AGP. Suffice it to observe that the Hon'ble Minister had entertained the revision filed by the petitioner and dismissed the same having not found favour with the contention raised by the petitioner that the inquiry officer i.e. the District Deputy Registrar Shri Lavand should not have been appointed as an inquiry officer as he was actively associated with the decision making of the DCC Bank.

8. My attention has been invited to an additional affidavit filed by the petitioner in these proceedings on 22nd April, 2019 which encloses copy of the directive of the State Government of October, 2016. The said directive states that the District Deputy Registrar who is nominated on the Board of Directors is expected to attend every meeting of the Board of Director and give his opinion on all important issues on the agenda. The District Deputy Registrar has been further directed to submit a report to the Commissioner of Co-operation. This directive was not before the Hon'ble Minister when the revision was heard. The Hon'ble Minister has proceeded on the footing that the District Deputy Registrar has no voice in the meeting as he is merely nominated by the State Government on the Board of Directors.

9. In all fairness to the Hon'ble Minister and as the directive of October, 2016 which is produced at Exhibit 'K' was not before the Hon'ble Minister when the revision was decided. However, in the interest of justice, to consider the effect of said directive of October, 2016 on the contentions raised by the petitioner of the alleged possibility of bias, it is necessary to remit the matter back to the Hon'ble Minister.

10. Considering the seriousness of the allegations made by the respondent No.7, it would be appropriate if the Hon'ble Minister decides the revision expeditiously and in any case within a period of ten weeks from 24/2/2021 when the parties are directed to appear before the Hon'ble Minister at 3.00 p.m. when further schedule may be fixed.

11. Needless to mention that the petitioner as well as the respondent No.7 will be heard before the revision is finally decided.

12. The parties undertake to appear before the Hon'ble Minister on 24/2/2021, at 3.00 p.m.

13. All contentions including the locus of the petitioner is kept open.

14. As I have directed the Hon'ble Minister to decide the matter expeditiously within a period of ten weeks from 24/2/2021, the interim relief operating during the pendency of the Petition to continue till disposal of the revision.

Diksha
Rane

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signed by
Diksha Rane
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15. In view of the disposal of the Writ Petition, the Civil Application is disposed of.

(M.S.KARNIK, J.)