

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1073/2020.

Nandgaon Khandeshwar Taluka
Sahakari Shetki Kharedi Vikri
Samiti Ltd.

..... Petitioner.

-VERSUS-

District Deputy Registrar of
Cooperative Societies, Amravati
and another.

..... Respondents.

.....
Shri P.S. Patil, Advocate for the Petitioner.
Ms. K.S. Joshi, Government Pleader for Respondent No.1.

.....

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATE : 25 JANUARY 2021.

P.C.

Heard learned Counsel for the Parties.

2. The Petitioner is a Society registered under the Maharashtra Cooperative Societies Act, 1960. On 19 August 2019, the Petitioner wrote to the Respondent No.1 stating that

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the audit of the Petitioner Society for the period 1 April 2017 to 31 March 2018 has been erroneously conducted in view of certain records wrongly maintained. It was stated that the anomalies in the record were brought to the notice in the Annual General Meeting and a resolution is passed and it is decided that re-audit be requested for. Accordingly the Petitioner sought re-audit of its audited accounts.

3. The request made by the Petitioner was considered by the Respondent No.1 with reference to Rule 69 (6)(v) of the Maharashtra Cooperative Societies Rules. The Respondent No.1 opined that the entries can be considered in the next year, which is a usual practice and it will not be advisable to carry out the re-audit for the period 1 April 2017 to 31 March 2018, as requested.

4. This stand of the Respondent No.1 is also reiterated in the affidavit in reply. The learned Counsel for the Petitioner submits that as regards including the entries in the next financial year is concerned, the Petitioner apprehends that such a course of action communicated by the Respondent No.1 will have no basis in law and will create difficulties for the Petitioner. It is also contended that in appropriate case such re-audit can be permitted and the Petitioner has made out a suitable case.

5. We have perused Rule 69(6) of the Rules. As regards reliance of the Respondent No.1 in the reply to Rule 69(6)(v) of

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the Rules is concerned, it is a default clause relating to any other matters specified by the Registrar. It has not been brought to our notice that any matter has been specified by the Registrar which includes the present one. The Registrar in the impugned order has referred to past practice.

6. Once request is made within the ambit of the Rule, it will have to be dealt with as per the Rules, Regulations and therefore, it was necessary for the Respondent No.1 to specify under which Rule there is an embargo not to entertain the request of the Petitioner instead of referring to past practice and under which Rule the entries can be taken in the next year. No such particulars are given in the impugned order. The apprehension of the Petitioner therefore, cannot be said to be unwarranted. We therefore quash and set aside the order dated 11 October 2018 and restore the application of the Petitioner made to the Respondent No.1 dated 19 August 2019, to take a decision and pass an order in the light of what is observed above.

7. Writ Petition is accordingly disposed of.

(ANIL S. KILOR, J)

(NITIN JAMDAR, J)

Rgd

Rakesh
Dhuriya

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by Rakesh
Dhuriya
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