

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1384 OF 2021

Namdeo s/o Pandurangaji Kapgate and others

Vs.

State of Maharashtra through its Secretary, Co-operation, Marketing and Textile Deptt.
Mumbai-32 and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri V. B. Gawali, Advocate for petitioners.
Shri N. R. Patil, AGP for respondent nos.1 to 3.

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE, JJ.

DATED : 24/03/2021

Hearing is conducted through Video Conferencing and all the learned Advocates agreed that the audio and visual quality was proper.

2. Heard Shri Gawali, learned counsel for the petitioners.

3. This petition challenges the show cause notice dated 12.02.2021 issued by respondent no.3 under Section 78-A of the Maharashtra Co-operative Societies Act, 1960 thereby calling upon the petitioners Society as to why the Board of Directors be not dissolved. According to the learned counsel for the petitioners, proviso to Section 78-A is applicable to the petitioners Society and, therefore, no show cause notice under Section 78-A could have been issued.

4. The proviso on which reliance has been placed by the learned counsel shows that Section 78-A provisions would not apply to a society if there is no government sharing / holding in the society or there is no loan or financial assistance taken by the petitioners society from the government or there is no guarantee issued by the government to the society.

5. Learned counsel for the petitioners submits that the communication dated 26.02.2021 (page 38) would show that nothing is due to the government from the petitioners society and, therefore, learned counsel further submits, Section 78-A is not applicable to the petitioners society.

6. We do not find any substance in the submission for the reason that the proviso in question itself shows that Section 78-A provisions would be applicable to a society if any of the conditions stated therein is fulfilled. If there is any government share / holding in the society or if any guarantee has been issued by the government to the society, the provisions of this Section would be applicable to the society. There is nothing on record which shows that there is no guarantee issued by the government or there is no government sharing / holding in the petitioner society.

7. Even otherwise, these grounds being always available could have been taken by the petitioners

society while responding to the show cause notice dated 12.02.2021. The petitioners society has not done so and directly approached this Court. In our opinion, this is nothing but unavoidable interference of the petitioners in the due process of law.

8. The petition stands dismissed accordingly.
No costs.

JUDGE

JUDGE

Sarkate