

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

Writ Petition No.1863/2018

Dhiraj Wasukar and others V The State of Maharashtra and others

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr. V.V Bhangde, Senior Advocate assisted by Mr. R.M. Bhangde, Advocate for petitioners.

Mr. AM. Ghare, Advocate for respondent no.5.

Mr. P.S Patil, Advocate for respondent nos. 6 to 9.

Ms N.P. Mehta, AGP for respondent nos. 1 to 4.

**CORAM : DIPANKAR DATTA, CJ &
 V.M.DESHPANDE, J.**

DATE : July, 27,2021.

1. The petitioners were recruited in the service of the respondent no.5-Amravati Zilla Parishad Shikshak Sahakari Bank Limited, following a duly constituted selection process. However, after such appointments took effect, some queries were raised by the office of the Divisional Joint Registrar, Cooperative Societies in regard thereto. An enquiry was conducted which reveals that the appointments had been made not in accordance with law.

2. By an order dated 22-01-2018, the Divisional Joint Registrar, Cooperative Societies conveyed to the respondent no.5 that since it had violated the extant Service Rules while conducting the process of recruitment, the appointments made may be cancelled immediately. Since the respondent no.5 did not act on such order, directions were issued from the office of the Divisional Joint Registrar, Cooperative Societies as per Section 79 of the Maharashtra Cooperative Societies Act, 1960 on 27-02-2018. The Divisional Joint Registrar, Cooperative Societies noted that his earlier order dated 22-01-2018 had been modified in a revision before the Government by the respondent no.5 and that an interim stay had been granted in respect of the order dated

22-01-2018. Based on the revelation that the said order had been vacated by an order dated 28-03-2018, the Divisional Joint Registrar, Cooperative Societies proceeded to pass an order dated 28-03-2018 cancelling the appointments made in favour of the petitioners.

3. The order dated 28-03-2018 of the Divisional Joint Registrar, Cooperative Societies is the subject matter of challenge in this Writ Petition on two-fold grounds: (i) that principles of natural justice were blatantly violated in as much as the appointees like the petitioners were not granted any opportunity of hearing; and (ii) that the Divisional Joint Registrar, Cooperative Societies lacked the jurisdiction to cancel the appointments.

4. While seized of this Writ Petition, we have been informed by Ms Mehta, learned AGP that an order has been passed on 09-10-2018 by the Hon'ble Cooperative Minister, Mr. Subhash Desai, whereby the order dated 22-01-2018 passed by the Divisional Joint Registrar, Cooperative Societies has been set aside. It is also the submission of Ms Mehta that in view of such order of the Hon'ble Minister, the order impugned in this Writ Petition dated 28-03-2018 does not survive and, therefore, will cease to have any effect *qua* the petitioners.

5. Hearing such submission, Mr. Bhangde, learned senior advocate appearing for the petitioners submits that the petitioners' interests have been taken care of by the Hon'ble Minister while passing the order dated 09-10-2018 whereby the initial order dated 22-01-2018 of the Divisional Joint Registrar, Cooperative Societies has been set aside and the subsequent order, i.e., order dated 28-03-2018, would cease to have any effect as per the submission made by Ms Mehta. In view thereof,

the Writ Petition may be disposed of recording the statement of Ms Mehta.

6. Mr. Parchure, learned advocate for the respondent no.5 and Mr. Patil, learned Advocate appearing for one of the Directors of the Bank submit that no decision on the merits of the petitioners' grievance is required in view of the submission made by the learned AGP.

7. We accept the statement of Ms Mehta and dispose of this Writ Petition without making order on merits. However, it is made clear that since the order of the Divisional Joint Registrar, Cooperative Societies ceases to have any effect, the petitioners will continue to discharge the duties and functions assigned to them by the respondent no.5 till such time their employment with the respondent no.5 subsists.

8. The parties shall bear their own costs.

(V.M.DESHPANDE, J.)

(CHIEF JUSTICE)