

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**  
**WRIT PETITION NO.3352 OF 2020**

Jinendra Lalchand Sontakke,  
Aged about 55 years, Occu: Service,  
Secretary (suspended), Agricultural Produce  
Market Committee, Gondpipri,  
District Chandrapur.

**...PETITIONER**

**...V E R S U S...**

- 1) The Agricultural Produce Market  
Committee, Gondpipri, District Chandrapur,  
through its Chairman.
- 2) The Divisional Joint Registrar,  
For Cooperative Societies,  
Nagpur Division, Nagpur,  
Office at Sitabuldi, Nagpur.

**...RESPONDENTS**

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Shri Shantanu Ghatge, Advocate for petitioner.  
Shri P.D. Meghe, Advocate for respondent no.1.  
Shri K.L. Dharmadhikari, A.G.P. for respondent no.2.  
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**CORAM:- V. M. DESHPANDE, J.**  
**DATED :- 15<sup>th</sup> FEBRUARY, 2021.**

**ORAL JUDGMENT**

**Rule.** Rule is made returnable forthwith. Heard finally  
by consent of the parties.

(2) Heard Shri Shantanu Ghatge, learned counsel for the  
petitioner, Shri P.D. Meghe, learned counsel for the respondent  
no.1 and Shri K.L. Dharmadhikari, learned Assistant Government  
Pleader for respondent no.2.

(3) By this writ petition the petitioner is challenging the order dated 07.07.2020 passed by the respondent no.2 – Divisional Joint Registrar, Cooperative Societies, Nagpur Division, Nagpur.

(4) The petitioner has filed an appeal before the respondent no.2 challenging his suspension. The matter was fixed for hearing on 07.07.2020. The impugned order shows that the petitioner/appellant was absent. The impugned order further shows that he sent an adjournment application on WhatsApp of Shri Joshi, a Stenographer of respondent no.2, stating therein that due to rejection of e-pass by the authority he could not attend the hearing on 07.07.2020. From the impugned order it appears that the respondent no.1-A.P.M.C. was represented by its advocate, Shri Khelkar, who filed a preliminary objection and prayed for vacation of ad interim ex-parte stay order granted in favour of the petitioner on 12.06.2020. The impugned order shows that looking to the preliminary objection, the stay was vacated.

(5) It is not in dispute that the petitioner is resident of Gondpipri, District Chandrapur. The Divisional Joint Registrar, Cooperative Societies office is at Nagpur. It is also not disputed that there was restriction for crossing the district borders

on 07.07.2020 and for that a person was required to have an e-pass. The impugned order itself shows that the petitioner applied for e-pass, which was rejected and the said was intimated by the petitioner by using the fastest mode of communication i.e. WhatsApp to the Stenographer of the respondent no.2 – Authority and as such the Authority was well aware that due to rejection of e-pass the petitioner is unable to attend the proceedings. It is a different matter whether the appeal filed on behalf of the petitioner before the respondent no.2 was maintainable or not maintainable, ex-parte stay was granted in favour of the petitioner therefore it was obligatory on the part of the Authority to give opportunity of hearing to the petitioner to meet the arguments advanced on behalf of the counsel for the respondent-A.P.M.C. that the appeal is not maintainable. The Authority ought to have considered that the petitioner was unable to attend the proceedings due to circumstances which were beyond his control.

(6) In that view of the matter, the writ petition is allowed. The order dated 07.07.2020 passed by the respondent no.2 – Divisional Joint Registrar, Co-operative Societies, Nagpur in Appeal No.2 of 2020 is hereby quashed and set aside.

The respondent no.2 is directed to give opportunity of hearing to the petitioner to point out his case regarding maintainability of the appeal.

The parties are directed to appear before the respondent no.2 – Divisional Joint Registrar, Cooperative Societies, Nagpur on 26.02.2021. After the appearance, the respondent no.2 shall decide the appeal after giving opportunity of hearing to the petitioner as well as respondent no.1 within a period of three months. Till the appeal is decided the parties to maintain *status quo*.

Rule is made absolute in above terms. No order as to costs.

**JUDGE**

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