

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

WRIT PETITION NO. 353 OF 2021

- 1) Shri Vivek Sudhakar Wadhai
Age. 33 years, Occu. :- Service,
R/o. Manjusha Layout, Bhadravati,
Tah. Bhadravati, Dist. Chandrapur
- 2) Shri Rajesh Subhash Sonkurwar
Age. 35 years, Occu. :- Service,
R/o. Jai Nagar ward, Chavhan Factory,
Chandrapur, Tah & Dist. Chandrapur
- 3) Shri Ravindra Mahadeo Jivtode
Age. 38 years, Occu. :- Service,
R/o. Zade Plot, Bhadravati,
Tah. Bhadravati, Dist. Chandrapur
- 4) Shri Durgraj Narayan Ramteke
Age. 42 years, Occu. :- Service,
R/o. Panchasheel Nagar, Bhadravati,
Tah. Bhadravati, Dist. Chandrapur
- 5) Shri Rajesh Dattatray Nagalkar
Age. 37 years, Occu. :- Service,
R/o. Panchasheel Nagar, Bhadravati,
Tah. Bhadravati, Dist. Chandrapur
- 6) Shri Prashant Sheshrao Zade
Age. 34 years, Occu. :- Service,
R/o. Killa Ward, Bhadravati,
Tah. Bhadravati, Dist. Chandrapur
- 7) Shri Mahesh Shriram Kamble
Age. 39 years, Occu. :- Service,
R/o. Guru Nagar, Chichordi, Bhadravati,
Tah. Bhadravati, Dist. Chandrapur
- 8) Shri Dattatray Mahadeo Khedkar
Age. 38 years, Occu. :- Service,
R/o. Qtr. No. 17-A-1/2, Ordinance Factory,

Chanda Estate, Tah. Bhadrawati,
Dist. Chandrapur

9) Shri Prashant Madhukar Parodhe
Age. 34 years, Occu. :- Service,
R/o. Qrt.No.41C, Type I, Sec.2,
Ordinance Factory, Chanda Estate,
Tah. Bhadrawati, Dist. Chandrapur

.... **PETITIONERS**

// **VERSUS** //

1) The Assistant Registrar (Co-op. Society)
Off. At Vijasan Road, Bazar Road,
Near Gudawar Lawn, Bhadrawati,
Tah. Bhadrawati, Dist. Chandrapur

2) Shri Ravi Mandhalkar,
The Sub-Auditor, Co-op. Society,
Off. at Vijasan Road, Bazar Road,
Near Gudawar Lawn, Bhadrawati,
Tah. Bhadrawati, Dist. Chandrapur

3) Sau. B.D. Kondawar,
The Auditor Class – II, Co-op. Society,
Off. at District Special Auditor, Class-I,
Above Hotel Sultan Biryani,
Tukum, Dist. Chandrapur

4) Ayudh Nirmani Karmachari Sahakari Pat
Sanstha, Maryadit, Bhadrawati Chandrapur
bearing its Regn. No.131/74, Thr. its
Manager, At Ordinance Factory Estate, Shop
No. 8 & 9, Tah. Bhadrawati, Dist. Chandrapur

5) Shri Sheshrao Vishwanath Dhengale
Age about 41 yrs., Occu : Service and
President of the Society, R/o Sumthana, Near
Water Tank, Bhadrawati, Dist. Chandrapur

6) Shri Sandip B. Niranjane
Age about 36 yrs., Occu : Service and vice-
President of the Society,
R/o New DSC Ordinance Factory Estate,
Ordinance Factory Chanda, Dist. Chandrapur

7) Shri Vijay Dnyaneshwar Kamble
Age about 40 yrs., Occu : Service and Secretary
of the Society,
R/o New DSC Ordinance Factory Estate,
Ordinance Factory Chanda, Dist. Chandrapur

8) Shri Maroti Purushottam Turankar
Age about 42 yrs., Occu : Service and
managing committee member of the Society,
R/o Sector -IV, Ordinance Factory Estate,
Ordinance Factory Chanda, Dist. Chandrapur

9) Shri Sandip Tulshiram Hajare
Age about 43 yrs., Occu : Service and
managing committee member of the Society,
R/o Sector -III, Ordinance Factory Estate,
Ordinance Factory Chanda, Dist. Chandrapur

10) Shri Abhimanyu Kumar
Age about 37 yrs., Occu : Service and
managing committee member of the Society,
R/o Sector -IV, New Ordinance Factory Estate,
Ordinance Factory Chanda, Dist. Chandrapur

11) Shri Ganesh Diwalu Karkade
Age about 37 yrs., Occu : Service and
managing committee member of the Society,
R/o Sector -IV, New Ordinance Factory Estate,
Ordinance Factory, Chanda, Dist. Chandrapur

12) Shri Ravindra Kumar Alok
Age about 36 yrs., Occu : Service and
managing committee member of the Society,
R/o Sector -V, New Ordinance Factory Estate,
Ordinance Factory, Chanda, Dist. Chandrapur

13) Shri Ahesan Ahmad Khan
Age about 44 yrs., Occu : Service and
managing committee member of the Society,
R/o Sector -IV, New Ordinance Factory Estate,
Ordinance Factory Chanda, Dist. Chandrapur

14) Smt. Leepika w/o Kishor Dange
Age about 35 yrs., Occu : Service and

managing committee member of the Society,
R/o New DSC, Ordinance Factory Estate,
Ordinance Factory, Chanda, Dist. Chandrapur

15) Smt. Swati w/o Sanjay Upare
Age about 34 yrs., Occu : Service and
managing committee member of the Society,
R/o Sector -IV, New Ordinance Factory Estate,
Ordinance Factory Chanda, Dist. Chandrapur

.... RESPONDENTS

Shri J.H. Jumde, Advocate for petitioners
Ms. N.P. Mehta, AGP for respondent No.1
Shri S. Ghate, Advocate for respondent Nos. 4 to 15

CORAM : N.B. SURYAWANSHI, J.

DATE : 26/10/2021

JUDGMENT

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned Advocates for the parties at the admission stage.

2. This petition takes exception to the order passed by Divisional Joint Registrar, Co-operative Societies, Nagpur, in Revision Application No. 524/2020, thereby partly allowing the revision.

3. At the outset, the learned Advocate for the respondent Nos. 4 to 15 submitted that the order impugned in the present petition is already implemented and acted upon. The directions given in the said

order are complied with. Therefore, the petition has become infructuous.

4. By levelling six charges, the petitioners complained to the respondent No.1 that the respondent Nos. 5 to 15, Managing Committee Members of respondent No.4 – Society have committed serious irregularities in the financial affairs etc. of respondent No.4 – Society. By order dated 09/08/2019, the respondent No.2 -Sub Auditor was directed to conduct inquiry into the said charges. The respondent No.2 submitted a report holding that there is misappropriation and recommending recovery from the President and Secretary of the Society and lodging criminal offences against them.

5. The respondent Nos. 5 to 15 challenged the said inquiry report by filing Revision Application No.524/2020 before the Divisional Joint Registrar, Co-operative Societies, Nagpur, contending that while conducting inquiry, no opportunity of hearing was given to them, even the inquiry report was not made available to them. They came to know about the inquiry in the month of March, 2020 and then they filed the revision challenging the said report.

6. The Divisional Joint Registrar partly allowed the revision and set aside the findings recorded by respondent No.2 in the preliminary inquiry report and also set aside the order directing test

audit. The respondent No.1 was directed to issue revised orders for conducting impartial test audit in respect of six charges levelled by the petitioners in their complaint by appointing a different auditor and to complete the test audit within one month on priority basis. This order is impugned in the present petition.

7. The learned Advocate for the petitioners assailed the impugned order submitting that the revision filed by the respondents was beyond the period of limitation as provided under Section 154 of the Maharashtra Co-operative Societies Act. The petitioners who were complainants were not made party in the revision and therefore the impugned order is unsustainable and the same may be set aside by allowing the petition.

8. No opportunity of hearing was given by respondent No.2 to respondent Nos.5 to 15 while conducting the preliminary inquiry. In normal course, when a complaint is received in respect of affairs of a society an explanation and documents are called from the said society. After receiving the same, if further inquiry is to be conducted then the preliminary inquiry is directed to be conducted through Flying Squad. Thus there was no occasion for respondent No.1 to entrust preliminary inquiry to respondent No.2 – Sub Auditor. After conducting preliminary inquiry, if some serious and objectionable aspects are revealed then

Statutory Inquiry under Section 83 and then under Section 88 of the said Act is expected to be conducted. In the present case, the respondent No.1 appears to have adopted wrong procedure. The Divisional Joint Registrar was therefore justified in partly allowing the revision.

9. The contentions of the petitioners that revision was filed beyond limitation is also not acceptable in the peculiar facts of the present case. Since no opportunity of hearing was given to the respondent Nos. 5 to 15, when they came to know about the impugned inquiry report in the month of March, they immediately challenged it by filing the revision.

10. No perversity or illegality is found in the order impugned in the present petition. Since the order impugned is already implemented and pursuant to the same test audit is conducted and the respondent Nos. 5 to 15 have submitted compliance report, this is not a fit case to exercise writ jurisdiction. The Writ Petition is therefore dismissed. Rule discharged. No cost.

JUDGE

J.Pethe..