

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7065 OF 2017

Shrirampur Sahakari Housing
Society Ltd., Shrirampur,
Gopal Nagar, Near St. Luk Hospital,
Shrirampur, Dist. Ahmednagar
Through its Chairman
Shri. Anantrao Jagannath Kulkarni
Age- 72 years, Occ- Business
R/o. Shrirampur, Tq. Shrirampur,
Dist. Ahmednagar.

...PETITIONER

VERSUS

1. The Assistant Registrar
Co-operative Societies, Shrirampur,
Shivaji Road, Shrirampur,
Dist. Ahmednagar.
2. Shri P.P. Dagale (Liquidator)
Assistant Co-operative Officer,
Shrirampur, Shivaji Road, Shrirampur,
Dist. Ahmednagar.

...RESPONDENTS

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Mr. V.S. Bedre, Advocate for the petitioner.
Mr. S.N. Kendre, AGP for respondent - State

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[CORAM : NITIN B. SURYAWANSHI, J.]

RESERVED ON: 28th JULY, 2022
PRONOUNCED ON: 19th OCTOBER, 2022

ORDER :

1. This petition filed under Article 227 of Constitution of India takes exception to the order passed by the Assistant Registrar, Co-operative Society, Shrirampur, thereby canceling

the registration of the petitioner/society. Said order is confirmed in revision by the Divisional Joint Registrar.

2. On 13.12.1948, the petitioner/society was registered under the provisions of Maharashtra Co-operative Societies Act, 1960 (for short 'said Act'). By order dated 11.11.2014, respondent No. 1/Assistant Registrar passed an order appointing liquidator on the petitioner as the petitioner is not functioning and has not submitted accounts to the department. On 31.03.2015, final order of liquidation is passed. Thereafter, the petitioner was deregistered on 06.02.2016. The petitioner unsuccessfully challenged the orders passed by respondent No. 1 by filing Revision Application No. 75/2016 before Divisional Joint Registrar. The order of deregistration and the order passed in revision are challenged in this petition.

3. Heard the learned advocate for the petitioner and learned AGP for respondent/State.

4. The learned advocate for the petitioner submits that the interim order of appointment of liquidator and final order confirming his appointment are passed without giving

opportunity of hearing. The impugned orders are passed in violation of principles of natural justice. Said orders are passed without verifying the record of respondent No. 1. Accounts and audit reports are submitted by the petitioner online in addition to physical copies of said report, which is acknowledged. The society is regularly functioning and has maintained accounts with the bank. The meetings are conducted regularly. These aspects are ignored while passing the impugned orders. The impugned order is unreasoned order and therefore it cannot be sustained. Divisional Joint Registrar has failed to consider the contentions raised by the petitioner, hence the order passed by him in revision is unsustainable. The learned advocate for the petitioner, therefore, submits that by quashing the impugned orders the writ petition deserves to be allowed. In support of his submissions, the learned advocate for the petitioner placed reliance on *Shantilal Lalchand Chagede and Others Vs. Prasad Oak and Others*, 2009 6 Mh.L.J., 584.

5. Per contra, the learned Assistant Government Pleader supports the impugned orders. By relying on the affidavit in reply filed by respondent No. 1, he submits that, the petitioner has failed to submit audit report, proceedings of general body

meetings and the mandatory returns since its registration. Therefore, action of respondent No. 1 in deregistering the petitioner is proper.

6. Heard the learned advocate for the petitioner and the learned Assistant Government Pleader for Respondent/State at length. Perused the grounds raised in the writ petition, documents placed on record and the citation relied upon by the petitioner.

7. Record shows that since registration, petitioner has failed to comply with the mandatory requirement of submitting audit reports, proceeding of general body meetings and returns of society, every year. The petitioner, since beginning, has not maintained the record and has not submitted the said record to respondent No. 1.

8. Though the petitioner has claimed that all the relevant record was submitted to respondent No. 1, as per the requirement of section 79(1A) of the said Act, there is nothing on record to substantiate the same. This after thought stand appears to be adopted by the petitioner after action against the

petitioner was initiated by respondent No. 1. It is therefore, clear from the record that the petitioner has failed to conduct audit from time time and submit up to date audit reports to respondent No. 1, no accounts and proceeding books are maintained by the petitioner in terms of its by laws and the petitioner has failed to furnish statements as well as information in respect of elections conducted by the petitioner from time to time. Respondent No. 1, therefore, is justified in holding that the petitioner/society appears to be stagnant. In that view of the matter, respondent No. 1 is justified in deregistering the petitioner/society.

9. A public notice under section 89(4) of the said Act is issued in daily Punya Nagri on 14.01.2016, wherein names of 80 societies functioning under respondent No. 1 are given, name of petitioner is at serial no. 5 in the said list. In the notice it is stated that 81 societies from Shrirampur taluka are under liquidation. On visit, the societies were not found on their registered address. The Managing Committee of the societies, their officers or employees have not submitted required information to the office of liquidator. Therefore, existence of these societies is doubtful. The liquidator from time to time

though forwarded letters, till date record and property of the societies is not handed over to the liquidator. The concerned committee members/employees should contact office of liquidator along with record till 20.01.2016. Final meeting of all the societies is scheduled on 22.01.2016 in the office of respondent No. 1. On that date decision about deregistration of the societies will be taken.

10. It further appears from the record that on 22.01.2016 final report in respect of the petitioner was submitted by the liquidator to respondent No. 1, wherein it is stated that nobody from the petitioner has responded to the public notice and has not contacted the liquidator. The petitioner's bank account is in Ahmednagar District Central Co-operative Bank, wherein balance is Rs. 9248/-. Said amount is transferred in the surplus account of District Deputy Registrar, Ahmednagar. No Managing Committee member of the petitioner was available to hand over the charge of the petitioner. It is therefore, clear that the members have lost interest in the petitioner. Therefore, the petitioner be deregeistered.

11. Pursuant to said report, registration of the petitioner was cancelled by order dated 16.02.2016.

12. It is therefore, clear from the record that even after issuance of interim order of appointment of liquidator, the petitioner has failed to submit its say. The petitioner has also failed to respond to the public notice. Therefore, the order passed by respondent No. 1 thereby deregistering the petitioner cannot be said to be illegal.

13. The contention of the petitioner that the impugned orders are passed in violation of principles of natural justice is also unsustainable as in spite of repeated communications and public notice, the petitioner has failed to respond. Therefore, the petitioner now cannot say that the impugned orders are passed in violation of principles of natural justice, as the petitioner has failed to avail opportunities given to the petitioner from time to time.

14. The Divisional Joint Registrar by appreciating the contentions of the petitioner and record has rightly up held the order passed by respondent No. 1.

15. For the aforesaid reasons, there is no merit in the writ petition. The writ petition is dismissed.

16. The petitioner is at liberty to apply for fresh registration of society in accordance with law.

[NITIN B. SURYAWANSHI, J.]