

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

Writ Petition No.152 of 2021

Sau. Vrudatai Rameshrao Deshpande & others

vs.

District Deputy Registrar Cooperative Societies, Akola & others

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

Court's or Judge's Orders

Mr. Zeeshan Z. Haq, Advocate for the Petitioners.
Mr. K.L. Dharmadhikari, A.G.P. for Respondent Nos.1 & 2.

CORAM : MANISH PITALE, J.
DATE : 5th APRIL, 2022.

A short point arises for consideration in this petition. The petitioners and respondent Nos.5 to 7 are the directors of respondent No.3-Society and they were proceeded against under the provisions of the Maharashtra Cooperative Societies Act, 1960. On the basis of an enquiry conducted against them under Section 71(4) and 88 of the said Act, a report was prepared and ultimately by the impugned order dated 13/09/2020, the petitioners as well as respondent Nos.5 to 7 were saddled with liability of a fixed amount to be paid with 18% interest thereon.

02] Mr. Haq, learned Counsel for the petitioners submitted that while such a huge liability was fixed on the petitioners and other directors of respondent No.3-Society, the manner in which the enquiry was conducted leading to the enquiry report and ultimately the impugned order dated 13/09/2020 indicated that there was violation of principles of natural justice. This was also because of the fact that the

petitioners and other directors could not effectively participate in the enquiry, due to lockdown imposed because of COVID-19 pandemic. The petitioners are ready to face a fresh enquiry, wherein the principles of natural justice would be followed, so that they would be able to defend their case and refute the allegations levelled against them.

03] In fact, while issuing notice, this Court has observed as follows in the order dated 08/01/2021:

“2. The principal grievance raised on behalf of the petitioners is that the respondent No.4 Enquiry Officer did not follow the principles of natural justice while conducting the enquiry and huge liability has been affixed on the petitioners in the enquiry report submitted by the respondent No.4. It is further submitted that pandemic situation ought to have been taken into consideration while conducting the enquiry. A submission is made that if a fresh enquiry is directed, the petitioners will cooperate with the same and that therefore, the present petition deserves to be allowed.”

04] Mr. Dharmadhikari, learned A.G.P. appearing on behalf of respondent Nos.1 and 2 submitted that paragraph 5 of the reply in response to the writ petition has taken into account the specific contention raised on behalf of the petitioners regarding their readiness to face a fresh enquiry and it is stated therein, as follows :

“5. It is further submitted that, it is the contention

of the petitioners, which was recorded vide issuing notices on 08/01/2021 that, if a fresh enquiry is directed, the petitioners will cooperate the same. In view of the same and taking into consideration the fact that, the petitioners are senior citizens and there was a lockdown situation, the enquiry report and order dated 13/09/2020 be quashed and set aside and the enquiry shall commence, from the stage the notices issued under Rule 72(3) of the Act, by which charges were framed by the respondent No.4.”

05] In this backdrop, without going into the contentions raised on behalf of the petitioners and the merits of the matter pertaining to the allegations levelled against the petitioners, as also the findings given in the impugned order, this Court is inclined to partly allow the writ petition, so as to quash and set aside the impugned enquiry report and the order dated 13/09/2020 passed by respondent No.1. A fresh enquiry can be conducted on the allegations levelled against them, from the stage when the charges were framed.

06] In view of the above, the writ petition is partly allowed. The impugned enquiry report and order dated 13/09/2020 are quashed and set aside. The enquiry shall now proceed afresh from the stage from framing of charges against the petitioners and other directors of respondent No.3-Society. The directors shall file, if so advised, additional reply and additional documents before the enquiry authority-respondent No.4 within a period of six weeks from the date of appearance. The petitioners and

other directors shall appear before the enquiry authority on 18th April, 2022. The enquiry shall be conducted expeditiously and shall be completed within three months from the date of appearance before the enquiry authority. All the questions on merits are kept open.

JUDGE

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