

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

WRIT PETITION NO. 810 OF 2018

Ashok S/o Ghanshyam Suryavanshi

-- Petitioner

Vs.

The District Deputy Registrar / Additional
Registrar and another

-- Respondents

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

Court's or Judge's orders

Mr. V.P. Marpakwar, Advocate for Petitioner
Mrs. S.S. Jachak, AGP for Respondent No.1

CORAM : MANISH PITALE, J.

DATE : 06th JULY, 2022

Heard learned counsel for the petitioner.

2. By this writ petition, the petitioner has challenged order dated 28/12/2017, passed by the respondent No.1 i.e. District Deputy Registrar of Co-operative Societies, Nagpur, whereby an application under Section 107 of the Maharashtra Co-operative Societies Act, 1960, has been rejected.

3. The petitioner was reverted, he had approached the respondent No.1, seeking permission to challenge the said action of the employer – Co-operative Bank and by order dated 17/01/2014, such permission was granted. Subsequently, the

Co-operative Bank went into liquidation and a Liquidator was appointed. Thereafter, by order dated 29/09/2017, the service of the petitioner was terminated, as a consequence of which the petitioner was constrained to move an application dated 09/11/2017, before the respondent No.1 for permission under Section 107 of the aforesaid Act in order to institute appropriate proceedings in the context of termination of his service.

4. By the impugned order, the permission has been rejected holding that grant of such permission would not be justified.

5. The learned counsel appearing for the petitioner has relied upon judgments of this Court in the case of **Waman Vyankatash Ruikar Vs. Registrar, Co-operative Societies, Maharashtra State, Pune and others** reported in 2003-I-LLJ 434 and **Narayan s/o Arjunji Vigne and others Vs. State of Maharashtra and others** reported in 2011(1) Mh.L.J. 149, wherein it has been held that such permission under Section 107 of the said Act ought to be granted as a matter of course.

6. The respondent No.1 has filed affidavit-in-reply, stating that similarly situated employees of the Co-operative Bank upon their termination of service had preferred a Writ Petition No.6342/2017, in this Court, challenging the policy decision of the State Government with regard to their retrenchment. It is submitted that the said Writ Petition was withdrawn. The

decision of the respondent No.1 was sought to be justified in the said affidavit. It was also sought to be indicated that the service of the petitioner was terminated after holding enquiry on specific charges, including a charge of misappropriation of funds.

7. This Court is unable to understand as to how the respondent No.1 could decline permission under Section 107 of the said Act by the impugned order when on an earlier occasion permission was indeed granted to the petitioner to challenge his reversion. Merely because some similarly placed employees had challenged the policy decision of the State in this Court by way of writ petition, which stood withdrawn, could not have been a ground for declining such permission. Even otherwise, the impugned order does not refer to such a reason and by way of affidavits reasons cannot be added or supplanted for justifying the impugned order.

8. As regards the service of the petitioner being terminated after enquiry on charges, including the charge of misappropriation of funds, that could be a matter on merits, which this Court is not concerned with in the present writ petition. Considering the judgments on which the learned counsel for the petitioner has placed reliance, this Court is convinced that the impugned order is not justified. Accordingly, the writ petition is allowed. The impugned order is quashed and set aside and the application filed by the

petitioner under Section 107 of the aforesaid Act is allowed in terms of the prayers made therein.

JUDGE