(Reportable)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.14092 OF 2023

BHAUSAHEB BHUJANGRAO PAWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

…
Shri S.S. Tope, Advocate for the Petitioner.
Shri P.S. Patil, AGP for Respondents 1 to 3/State.
Shri V.D. Hon, Senior Advocate i/by Shri A.V. Hon, Advocate for Respondents 4 and 5.
Shri V.D. Salunke, Advocate for Respondent 6.
...

**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

**Reserved on 29th November, 2023
Pronounced on 22nd December, 2023**

ORDER (*Per Ravindra V. Ghuge, J.*) :-

1. The Petitioner, who claims to be a member of Respondent No.4/Sugar Factory, has put forth prayer clauses B, C, D, E and F as under:-

> "*B) By issuing the writ of certiorari or any other writ in the like nature, the impugned communication dated 15/09/2023 (Exhibit "G") issued by the Deputy Secretary of the Co-operative Department working under the*

respondent no. 1 thereby granted extension of one year to the service of respondent No. 6 being Managing Director of respondent No. 4 Sugar Factory which is contrary to the Government Policy may kindly be quash and set aside and for that purpose this Hon'ble Court may pass necessary orders.

C) *By issuing the writ of mandamus or any other writ in the like nature, the respondent No. 6 may kindly be restrained from working as Managing Director of respondent No. 4 and 5 Co-operative Sugar Factory by declaring that, the extension to the service of respondent No. 6 is contrary to the Government Policy and it is illegal and for that purpose may kindly issue necessary orders and directions.*

D) *By issuing the writ of mandamus or any other writ in the like nature, this Hon'ble Court may kindly direct to hold and enquiry of concerned Deputy Secretary who has issued the impugned communication dated 15/09/2023 (Exhibit "G") which is completely contrary to the Government Policy and also contrary to the recommendation of the Sugar Commissioner as well as internal noting of the Under Secretary of the Concern Department and further may kindly direct to take action against the concerned Deputy Secretary if he found guilty in the said enquiry and for that purpose may kindly issue necessary orders and directions.*

E) *Pending hearing and final disposal of this Writ Petition, this Hon'ble Court may kindly restrain the respondent No. 6 from working as Managing Director of respondent No. 4 and 5 Co-operative Sugar Factory and further may kindly direct that, he may not take part in any kind of work of the respondent No. 4 and 5 Sugar Factory and for that purpose may kindly* *issue necessary orders and directions.*

F) Pending hearing and final disposal of this Writ Petition, impugned communication dated 15/09/2023 (Exhibit "G") issued by the Deputy Secretary of the Co- operative Department working under the respondent no. 1 thereby granted extension of one year to the service of respondent No. 6 being Managing Director of respondent No. 4 Sugar Factory may kindly be stayed and for that purpose this Hon'ble Court may pass necessary orders."

2. Respondent No.6, who is the Managing Director of the Respondent No.4/Sugar Factory, has filed his affidavit in reply dated 25.11.2023. Respondent No.4/ Sugar Factory has filed it's affidavit in reply through Ramdas Bapu Gawate. Though his occupation is shown as "Service", it is not disclosed as to what position is he occupying with the Sugar Factory. Nevertheless, there is no dispute raised by the Petitioner on this aspect.

3. We have considered the extensive submissions of the learned Advocates, for the Petitioner, Respondent Nos.4 and 5/Sugar Factory, Respondent No.6 whose continuance as the Managing Director of the Sugar Factory beyond 62 years, is questioned and the learned AGP on behalf of the State Authorities.

4. In the light of the submissions of all the parties, we are dealing with the following issues that have been addressed to us :-

A) *Locus Standi* of the Petitioner

B) Alternate Remedy

C) Whether, the Managing Director can continue beyond 62 years of age?

D) Conduct of Shri Ankush P. Shingade and Shri Pamod Valanj, Deputy Secretaries, Government of Maharashtra.

E) Conclusion

[A] **Locus Standi of the Petitioner**

5. The Petitioner claims to be a member of the Respondent No.4 Sugar Factory. He is a sugarcane producer. Respondent No.4 has issued a certificate dated 19.05.2022, thereby certifying that the Petitioner is a member of the Sugar Factory, whose membership number is mentioned on the certificate, is a sugarcane grower and there is a bill receipt dated 19.04.2022, of having supplied sugarcane as per Register "I".

6. Respondent No.4/ Sugar Factory has canvassed that the Petitioner has suppressed material information. His

membership has been cancelled by a resolution dated 07.08.2023 passed by the Board of Directors. The resolution was placed before the General Body meeting and the same has been approved on 30.08.2023.

7. Respondent No.6 has repeated the above recorded submissions in his affidavit in reply. In addition, it is stated that though the Petitioner was a member of the Sugar Factory from 2018, he has little understanding about the developments of the Sugar Factory. He was not a regular sugarcane supplier. Respondent No.6 has been working as the Managing Director for more than seven years.

8. It is further canvassed that the Commissioner of Sugar has declared the Petitioner as a "Traasdaayak Vyakti" (troublesome person) and this decision has been communicated to the Petitioner on 04.01.2022. He has no locus standi to file this petition only for the reason that his membership has been cancelled.

9. In rebuttal, the learned Advocate for the Petitioner has canvassed that the Commissioner of Sugar, neither has the authority to declare him as a vexatious litigant, nor is there any provision under which he can declare the Petitioner as a

'troublesome person'. He refers to the Maharashtra Vexatious Litigation (Prevention) Act, 1971 and submits that the procedure laid down under this Act alone could be followed to seek a declaration that the Petitioner is a vexatious litigant.

10. He then points out Section 25 of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as "the said Act"), which reads as under:-

> *"25. Cessation of membership.*
> *A person shall cease to be a member of a society on his resignation from the membership thereof being accepted, or on the transfer of the whole of his share or interest in the society to another member, or on his death, or removal or expulsion [from the society, or where a firm, company, any other corporate body, society or trust is a member, on its dissolution or ceasing to exist.]"*

11. He then refers to Section 35 which provides for expulsion of members, which reads as under:-

> *"35. Expulsion of members.*
> *(1) A society may, by resolution passed [by a majority of not less than three-fourths] of the members entitled to vote who are present at a general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society:*
> *Provided that, no resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body, and no resolution shall be*

effective unless it is approved by the Registrar.

(2) No member of a society who has been expelled under the foregoing sub-section shall be eligible for re-admission as a member of that society, or for admission as a member of any other society, for a period of one year from the date of such expulsion :

Provided that, the Registrar may, on an application by the Society and in special circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be."

12. He then refers to Rules 28 and 29 of the Maharashtra Cooperative Societies Rules, 1961, which read as under:-

"28. Expulsion of Members.

Any member who has been persistently defaulting payment of his dues or has been failing to comply with the provisions of the by-laws regarding sales of his produce through the society, or other matters in connection with his dealings with the society or who, in the opinion of the committee, has brought disrepute to the society or has done other acts detrimental to the interest or proper working of the society or for the reasons mentioned in section 26 of the Act, may, in accordance with the provisions of sub-section (1) of Section 35, be expelled from the society. Expulsion from membership may involve forfeiture of shares held by the member."

"29. Procedure for expulsion of members.

(1) Where any member of a society proposes to

bring a resolution for expulsion of any other member, he shall give a written notice thereof to the Chairman of the society. On receipt of notice or when the committee itself decides to bring in such resolution, the consideration of such resolution shall be included in the agenda for the next general body meetings and a notice thereof shall be given to the member against whom such resolution is proposed to be brought, calling upon him to be present at the general body meetings to be held not earlier than a period of one month from the date of such notice and to show cause against expulsion to the general body of members. After hearing the member, if present, or after taking into consideration any written representation which he might have sent, the general body of members shall proceed to consider the resolution.

(2) When a resolution passed in accordance with sub-rule (1) is sent to the Registrar along with application, the Registrar may consider the resolution and after due inquiry and giving reasonable opportunity of being heard to such member give his decision within ninety days from the date of receipt of application and communicate the same to the society and the member concerned. The resolution shall be effective from the date of such approval."

13. He, therefore, submits that firstly, no resolution expelling him as a member would be valid unless he has been given an opportunity of representing his case to the General Body and no resolution would be effective unless it is approved by the Registrar. According to him, the Sugar Factory has neither

issued any notice of hearing to him, nor is it the case of the Sugar Factory that such a notice was issued and that, after hearing the Petitioner an order has been passed under sub-section (1) of Section 35.

14. The learned Senior Advocate representing the Sugar Factory and the learned Advocate for Respondent No.6/ Managing Director have not placed any material before the Court to indicate that the resolution was passed by a majority of not less than 3/4th of the members, who are present and entitled to vote and that the Petitioner was served with a notice of hearing and after such hearing, the order has been passed. No decision of the Registrar approving the purported expulsion of the Petitioner has been cited to the Court.

15. This Court has held in ***Bhaskar Laxman Rane vs. Shri Gurudev Nityanand Cooperative Housing Society Limited, Worli, Mumbai, 1998 (3) Mh.L.J. 127***, that the Registrar has to consider the merits of the case while dealing with the expulsion of a member. This Court has held in ***K.V. Sundaram vs. Raj Rajeshwari Cooperative Housing Society, Wani, 1980 Mh.L.J. 4***, that the provisions contained in Section 35 of the said Act read with Rules 28 and 29 of the Rules, 1961, form a self contained

code relating to the expulsion of a member. The correctness of the order under Section 35 cannot be subjected to a scrutiny or adjudication in a proceeding under Section 91.

16. In ***Tajnagar Cooperative Housing Society, Nanded vs. Fateh Mohammad Maulana, 2002 (5) Mh.L.J. 495***, this Court concluded that the mandatory procedure with respect to the show cause notice has to be followed and a resolution expelling the member has to be passed by 3/4th majority.

17. In ***Bhaskar Laxman Rane (supra)***, it was held that a meeting cannot be convened within 30 days from the date of service of the notice of expulsion upon the concerned member. In ***Kolhapur Zilla Sahakari Doodh Utpadak Sangh Maryadit vs. The State of Maharashtra and 64 others, 2007 (6) All MR 704***, it was held that the learned Single Judge was right in concluding that the resolution of expulsion passed in the General Body meeting was not legal and valid if the meeting is held within one month from the date of such notice.

18. The learned Advocate for Respondent No.6/Managing Director submits that the above provisions are directory in nature. However, we find that in ***Shree Vitthal Sahakari Sakhar Karkhana Ltd. vs. Wadikuroli Vividh Seva***

Society Ltd. and others, 2010 (5) Mh.L.J. 376, it was concluded that the mandatory requirement is to follow the due procedure before effecting expulsion of any member.

19. Insofar as the declaration by the Commissioner of Sugar that the Petitioner is a 'troublesome person', the coordinate Bench of this Court has already stayed the said declaration, by it's order dated 01.12.2022 passed in Writ Petition No.12033/2022.

20. In the light of the discussion in the foregoing paragraphs and the law applicable, it is apparent that the Petitioner's membership has not been cancelled and he is not expelled as a member of the Sugar Factory. **He, therefore, has the locus standi to file this petition**.

[B] **Alternate Remedy**

21. The learned Senior Advocate representing the Sugar Factory as well as the learned Advocate representing Respondent No.6, have canvassed that the Petitioner should be relegated to the Cooperative Court for raising a dispute. Both these Respondents have entered their affidavits in reply. However, Respondent No.6 has not raised the said issue in his affidavit in

reply. The Sugar Factory has made a passing reference in paragraph 8 of it's affidavit in reply as under:-

> *"8. I say that the petitioner who was one of the member ought to have challenged the validity and legality of the resolution dated 30.8.2023 passed by the Karkhana in its annual general body meeting by filing dispute under Section 91 of the Maharashtra Co- operative Societies Act, 1960. I say that there is no challenge raised to the said resolution. I say that the annual general body meeting of the Karkhana is supreme body and member has to speak through the society. I say that the proceedings initiated by way of present writ petition by the petitioner are not maintainable in law and he has no locus standi."*

22. The Petitioner has raised an issue of the State Government consistently flouting the law applicable and various Government Resolutions which prohibit the Government from granting extension to the Managing Director beyond 62 years. The policy of the Government is at issue. Considering the law laid down by the Honourable Supreme Court in ***Godrej Sara Lee Ltd. vs. Excise and Taxation Officer-cum- Assessing Authority, AIR 2023 SC 781: 2023 SCC Online (SC) 95***, we deem it appropriate to entertain this petition.

[C] **Whether, the Managing Director can continue beyond 62 years of age?**

23. There is no dispute that Respondent No.6 is 63 years of age. The Maharashtra Cooperative Societies Act, 1960, defines a "functional director" under Section 2(14-A), meaning a Managing Director or a Chief Executive Officer by whatever designation called, nominated by the Committee. Section 2(7) defines a "Committee" to mean a Committee of Management or Board of Directors or the Governing Body or other Directing Body of a cooperative society, to which the management of the affairs of a society, is entrusted with. Section 20(2) defines "an officer" to mean a person elected or appointed by a society to any office of the society according to it's bye-laws and includes a Managing Director, elected or appointed under the Act, the Rules or the Bye-Laws.

24. There is no dispute between the parties that the State Government follows a procedure for selection of candidates to be enlisted as being eligible for appointment as a Managing Director of the Sugar Factory. Any candidate above 60 years of age is not eligible for the first appointment. Vide Government Resolution dated 18.09.2010 (which has been subsequently superceded), the

retirement age of the Managing Director was increased from 58 to 60 years. It was further provided that an extension of only one year can be given by the Sugar Commissioner and a further extension upto four years was left to the State Government. A list of eligible candidates was published on 13.04.2015.

25. By the Government Resolution dated 02.12.2015 issued by the Department of Cooperation, Marketing and Textile, Government of Maharashtra, the earlier Government Resolution dated 18.09.2010 was superseded. In the said Government Resolution dated 02.12.2015, the earlier provisions, prescribing the retirement age of the Managing Director at 60 years, and the authority of the Commissioner of Sugar to grant only 1 extension by one year, were maintained. However, another extension of only one year (earlier it was 4 years) upto 62 years by the State Government, subject to exceptional/ special reasons, was left within the domain of the State Government. This clearly indicates that the earlier Government Resolution permitting the Government to grant an extension upto four years or upto 65 years of age, was deleted and was replaced by an extension by the State Government for only one year, exclusively for special reasons/ circumstances and that too only till the candidate was 62

years.

26. Pursuant to the above Government Resolution dated 02.12.2015 and the Government Resolution dated 22.01.2016, a Government Resolution dated 17.02.2016 was introduced. The retirement age of the Managing Director was maintained at 60 years. The power of the Commissioner of Sugar to grant an extension upto one year and the jurisdiction of the State Government to grant an extension upto one year subject to certain conditions, were maintained. However, for the purposes of such extension, as the case may be, twelve conditions were introduced vide the Government Resolution dated 17.02.2016, as being the benchmark for granting the last extension upto 62 years of age. In specific relation to the extension of one year by the State Government, strict conditions were introduced in clauses 10, 11 and 12 as under:-

“१०. सेवानिवृत्त होवून कार्यरत नसलेल्या कार्यकारी संचालकांना पुनर्नियुक्ती देण्यात येवू नये.

११. साखर कारखान्याने मुदतवाढीबाबत ठराव करताना वरील निकष विचारात घेवूनच ठराव करावा.

१२. वयाच्या ६१ वर्षानंतरच्या १ वर्षापर्यंत म्हणजेच वयाच्या ६२ वर्षापर्यंत विशेष काही कारण असेल तर मुदतवाढ देण्याचा निर्णय शासन

स्तरावर घेण्यात येईल. त्याबाबतचा प्रस्ताव शासनास सादर करताना साखर आयुक्त यांनी मुदतवाढ देण्याबाबतची सबळ कारणमीमांसा आणि विशेष कारण नमूद करून स्वयंस्पष्ट शिफारस / अभिप्राय शासनास सादर करणे आवश्यक राहील. शासन स्तरावर निर्णय घेण्यासाठी साखर आयुक्त यांनी वरील निकषानुसार तपासून स्वयंस्पष्ट शिफारशीसह प्रस्ताव कार्यकारी संचालक यांच्या वयाची ६१ वर्ष पूर्ण होण्यापूर्वी किमान १ महिना अगोदर शासनास सादर करावा."

27. It is thus, obvious that no Managing Director could be continued beyond 62 years of age, inasmuch as, even a reappointment was held impermissible. The period of extension of two years was held to be a period of reemployment. **It is thus, settled that, no Managing Director could be continued beyond 62 years of age since the State Government did not have the power to do so**.

[D] **Contentions as regards the conduct of Shri Ankush P. Shingade and Shri Pramod Valanj, Deputy Secretaries, Government of Maharashtra**.

28. The Commissioner of Sugar Dr.Chandrakant Pulkundwar has tendered an extensive submission dated

22.08.2023 to the Additional Chief Secretary (Cooperation and Marketing), Mantralaya, Mumbai, wherein, he has referred to the relevant Government Resolutions and has emphatically conveyed that since Respondent No.6 has completed 62 years of age and has had two extensions, first by the Commissioner of Sugar and the second by the State Government, it is legally impermissible to grant him any further extension.

29. In response to the said submission, the Desk Officer Smt.Saroj Pavaskar, has put a submission (the date 30.08.2023 having been put below the signature of Smt.Saroj Pavaskar) setting out that all the relevant authorities have opined that Respondent No.6 is not eligible for extension. The remarks of the Deputy Secretary Shri Ankush P. Shingade and the Additional Chief Secretary, Cooperation and Marketing Shri Rajesh Kumar, indicate their opinion that Respondent No.6 is not eligible for any further extension and he cannot be continued in the said capacity as there is no provision for granting a third extension and that too beyond 62 years of age. The Minister for Cooperation, Government of Maharashtra, does not appear to have made any comment. However, at the bottom of the said document at page 49 in the petition paper book, a remark appears

as “A pramane mudatvadh” (Extension as per A). This portion “A” reads as under:-

“१२. तथापि, नमूद करण्यात येते की, श्री. रमाकांत सूर्यकांत नाईक कार्यकारी संचालक पदास आवश्यक १ ते ९ निकष पूर्ण करित असले तरी शासनाने श्री. नाईक यांना यापूर्वी दिलेली मुदतवाढीस मान्यता, श्री. भाऊसाहेब पवार, जि. अहमदनगर यांनी मुदतवाढीस मान्यता देण्यारा घेतलेला आक्षेप तसेच परि. १० येथे नमूद साखर आयुक्त, यांचे अभिप्राय या बाबी विचारात घेता. श्री. रमाकांत सूर्यकांत नाईक कार्यकारी संचालक, सहकार महर्षी शिवाजीराव नारायणराव नागवडे सहकारी साखर कारखाना लि. मु.पो. श्रीगोदा फॅक्टरी, ता. श्रीगोंदा, जि. अहमदनगर यांना दि २१/०८/२०२३ ते दि.३१/०८/२०२४ पर्यंत (वयाच्या ६३ वर्षापर्यंत), कार्यकारी संचालक म्हणून मुदतवाढ देण्यात यावी किंवा कसे याबाबत आदेशार्थ सादर.”

30. It is a matter of circumspection as to who has put the above remark for granting an extension. None of the officers state that it is their remark. Thereafter, Shri Shingade has issued the letter dated 15.09.2023 to the Commissioner of Sugar stating therein that ‘he is directed to convey’ that Respondent No.6 should be granted an extension from 31.08.2023 till 31.08.2024.

31. The learned Advocate for the Petitioner has pointed

out an order passed by Shri Shingade dated 05.09.2023 with reference to another Managing Director Shri Sharad Fattesing Kadam of Dr.Patangrao Kadam Sonhira Sahakari Sakhar Karkhana Ltd., Wangi, Taluka Kadegaon, District Sangli, that the Managing Director cannot be continued beyond 62 years of age and if the management of that Sugar Factory insists on the services of Mr.Sharad Fattesing Kadam, he may be appointed on contractual basis on an honorarium. Shri Shingade has further cautioned the Commissioner of Sugar, not to forward the proposals which are legally unsustainable.

32. We are surprised by the fact brought to our notice by Respondent No.6, in his endeavour to seek 'negative parity', through his affidavit in reply that, the same Shri Ankush P. Shingade, has issued an order dated 17.10.2023 to the Commissioner of Sugar stating therein that 'he is ordered by the Minister, Cooperation, to convey that Shri Sharad Fattesing Kadam should be continued as the Managing Director by an extension of three years upto 65 years'. This shocks our judicial conscience as it indicates immense pressure exerted on Shri Ankush Shingade, who has issued this order dated 17.10.2023 without even recalling his earlier order of rejection of the same

proposal dated 05.09.2023.

33. The learned Advocate representing Respondent No.6 has then brought to our notice another order passed by Shri Pramod Valanj, Additional Secretary, Cooperation, Marketing and Textile, dated 27.01.2020, by which, he has conveyed to the Commissioner of Sugar that ‘he is ordered to communicate’ that Shri R.D. Desai, Managing Director of Shri Dudh Ganga Vedh Ganga Cooperative Sugar Factory Limited, Bidri, Taluka Kagaj, District Kolhapur, was also granted extension of two years beyond earlier extensions, upto the age of 65 years. A further order dated 06.08.2021 issued by Shri Pramod Valanj by which, the Commissioner of Sugar is informed that Shri Valanj has been ordered to communicate that Shri G.J. Jagtap, Managing Director of Karmaveer Shankarrao Kale Sahakari Sakhar Karkhana Ltd., Gautam Nagar, Kolpewadi, Taluka Kopargaon, District Ahmednagar, should be granted an extension of two years, beyond his age of 62 years.

[E] **<u>CONCLUSION</u>**

As the saying goes : *Two ‘Wrongs’, don’t make one ‘Right’.*

34. The learned Senior Advocate representing the Sugar Factory has canvassed that the list of eligible candidates for appointment as Managing Director had a term of two years. The said list was published on 13.04.2015. We are informed that the further selection process is underway and between 2015 till today, no other list has been published. In this backdrop, we have perused the said list of 99 candidates placed before us and the name of the present Respondent No.6 does not appear in the said list. We are informed that the list is not exhausted. Nevertheless, merely because the list is not updated, would not mean that Respondent No.6 could be continued beyond 62 years and that too after two extensions. Even the names of Shri Sharad Fattesing Kadam or Shri Ramakant Suryakant Naik or Shri R.D. Desai or Shri G.J. Jagtap, are not found in the said list, which is tendered to the Court across the Bar.

35. We are intrigued by the fact that the officers of the State Government are purportedly ordered by the Minister for Cooperation, State of Maharashtra, to act contrary to their own guidelines and grant extensions as Managing Director, beyond 62 years of age. It is obvious from the Government Resolution dated 17.02.2016 that the Government had introduced a strict policy

with regard to not granting extensions beyond 62 years. The intent and object of the State Government is indicated from the said policy decision. Without any change in the policy, a deviation contrary to the policy cannot be sustained. The above discussion indicates that Shri Ankush Shingade and Shri Pramod Valanj were apparently under pressure to issue orders for grant of extensions. In fact, Shri Shingade has been straightforward in mentioning in his communication dated 17.10.2023 that he was directed by the Minister for Cooperation to grant an extension upto 65 years. Even Shri Valanj has mentioned that he has been ordered to do so.

36. We are of the view that if a list was not available, the competent Authority/ State Government should have made alternate arrangement as could be permissible in law. For example, either the Deputy Managing Director (if available) could have been given the charge of the Managing Director or a Government Officer could have been appointed as in-charge Managing Director. The crystallized policy of the Government would not permit the Managing Director to continue beyond 62 years of age. Non availability of the list of selected candidates for appointment of the Managing Director cannot be a ground for

continuing the Managing Director beyond 62 years of age.

37. In view of the above, **this Writ Petition is allowed** in terms of prayer clauses B and C, reproduced above.

38. After the pronouncement of this order, the learned Advocate representing the appointee/Respondent No.6, prayed for protection for two weeks.

39. Shri Tope, the learned Advocate for the Petitioner, submits that there was no interim order passed earlier and hence, there is no question of granting any protection/interim order. He submits that even earlier, Respondent Nos.4, 5 and 6 have disobeyed the interim order of this Court, dated 8th November, 2023.

40. In view of the above, this order would come into effect after 15 days.

kps **(Y. G. KHOBRAGADE, J.)** **(RAVINDRA V. GHUGE, J.)**