

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

1 WRIT PETITION NO.13161 OF 2023

**SURESH AMBADASRAO WARPUDKAR
VERSUS
COMMISSIONER OF COOPERATION AND REGISTRAR FOR CO OPERATIVE
SOCIETIES AND OTHERS**

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Advocate for Petitioner : Mr. Mahesh Deshmukh h/f Mr. Uddhav Laxmanrao
Momale

I/c GP for Respondent : Mr. D.R. Kale

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 18.10.2023

PER COURT :

Heard learned advocate for the petitioner.

2. The petitioner is apparently aggrieved by the fact that the respondent No. 3-Divisional Joint Registrar, depriving the petitioner of an opportunity of leading evidence has for some ulterior reasons proceeded in undue haste and is concluding the proceeding for disqualification under the provisions of Section 73 (CA)(f)(ii) of the Maharashtra Co-operative Societies Act, 1960.

3. The learned advocate for the petitioner would point out that the disqualification proceeding is preceded by a report which was under challenge before this Court in Writ Petition No. 12137/2023. By the order dated 11.10.2023 this Court had refused to entertain the petition and had kept all the issues open. He would point out that the Court had observed that it was always open for the petitioner to question the report and satisfy the respondent No. 1 therein that is D.J.R. as to how in spite of that report he has not incurred any disqualification.

4. The learned advocate would submit that pursuant to such observations, the petitioner had submitted an application and sought witnesses to be examined under Order XIV Rule 1 and Order XVI (1) of the Code of Civil Procedure by framing preliminary issue to the effect as to whether the petitioner's society was a defaulter of the DCC bank during the relevant period and was he the director of that society during that time. In spite of such application having been filed, no opportunity was extended to the petitioner. He was called upon to submit the written arguments today by 1.30 p.m. and specifically recording the roznama observing that the matter would be reserved for orders after submission of such written arguments. He would submit that in fact the respondent No. 3 is a Divisional Joint Registrar who is only holding a charge of the post at Aurangabad and is for the reasons best known to him and driven by the political forces has decided to reach the conclusion without following principles of natural justice.

5. The learned advocate would also cite the decision in the matter of **Ravi Yashwant Bhoir Vs. District Collector, Raigad and others; (2012) 4 Supreme Court Cases 407.**

6. The issue as to whether the report, which forms the basis for the disqualification proceeding, is acceptable or otherwise was the issue which we had expressly refused to undertake scrutiny of, while disposing of the writ petition No. 12137/2023. We had also indicated that it was always open for the petitioner to demonstrate how the report would not result in demonstrating the circumstances which would entail disqualification. The respondent No. 3 is seized of the issue which is a quasi judicial matter, this Court in exercise of the powers under Article 226 will not be able to monitor the proceeding before the quasi judicial authority.

7. If the proceeding suffers from some infirmity, it would always be open for the petitioner if the decision goes against him, to satisfy the authority

before whom the decision could be challenged, demonstrating as to how the principles of natural justice were not followed.

7. Since, it is a matter of disqualification, we cannot prejudge any thing nor would we go into the details. If there is some defect or error being committed by the quasi judicial authority while adjudicating the issue, it would be subject to further scrutiny by the appropriate authority before whom the matter goes once the decision is reached.

8. In the peculiar circumstances, keeping open all the issues to be agitated by the petitioner not only before the DJR but even before the DDR (respondent No. 4), the writ petition is dismissed.

9. At this stage, the learned advocate for the petitioner submits that since the time for submitting the written notes of arguments was till 1.30 p.m. today at least he may be granted some time to comply. He would also request that in case the decision goes against the petitioner he should be extended some breathing time to avail of the appropriate remedy.

10. We are not inclined to pass any order contingent upon the decision to be taken. However, since we are informed that the matter is still to be decided by the respondent No. 3, we permit the petitioner to file the written notes of arguments tomorrow.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-