

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7453 OF 2022**

Jayant Ranganath Kulkarni	...	Petitioner
versus		
State of Maharashtra and Ors.	...	Respondents

Mr. Amit A. Gharte, for Petitioner.
Mr. C.D.Mali, AGP for State.
Mr. Milind Deshmukh for Respondent Nos.4 to 5.

CORAM: N.J.JAMADAR, J.

DATE : 27 APRIL 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This Petition is directed against an order dated 23 March 2021 passed by the Minister (Co-operation) in an Appeal under Section 152 of the Maharashtra Co-operative Societies Act, 1960, whereby the appeal preferred by the Petitioner, being Appeal No.17 of 2019, came to be dismissed by confirming the order dated 25 June 2018 passed by the Additional Registrar, Co-operatives Societies, Pune, appointing Respondent No.4 herein as an Authorized Officer.
3. The principal grievance of the Petitioner is that the Petitioner was not provided an opportunity of hearing. The learned Counsel for the Petitioner invited the attention of the Court to the notice of hearing (Exhibit D) dated 8 February 2021, whereby the parties were directed to appear before the Minister on the very next day

i.e. 9 February 2021. It was submitted that the said notice was served on the Petitioner on 8 February 2021 at 7.45 p.m. and the Petitioner had sought an adjournment by forwarding an application on 9 February 2021.

4. The Petitioners did not appear. The Minister did not adjourn the matter. On the very day, the appeal was closed for order.

5. The learned APP and the learned Counsel for Respondent Nos.4 and 5 countered the submissions on behalf of the Petitioner. An endeavour was made to show that the notice was duly served on the Petitioner and yet the Petitioner did not appear and, thus, it cannot be said that no opportunity of hearing was given to the Petitioner. The learned Counsel for Respondent Nos.4 and 5 further submitted that the appeal before the State Government was not maintainable and, therefore, no prejudice can be said to have been caused to the Petitioner.

6. I am afraid to accede to this submission. One of the grounds on which writ jurisdiction can be surely exercised is failure of the authority to adhere to fundamental principles of judicial process. A fair and reasonable procedure warrants an efficacious opportunity of hearing. The Court need not delve into the justifiability of the reason ascribed for seeking adjournment. Ex-facie, less than 24 hours notice for hearing of the appeal cannot be said to be an efficacious opportunity of hearing by any standard.

7. In the circumstances of the case, one day's notice amounts to denial of

opportunity of hearing. Therefore, without delving into the thickets of facts, on this ground itself, the Petition deserves to be allowed.

8. Hence, the following order :

ORDER

- (i) The Petition stands allowed.
- (ii) The impugned order dated 23 March 2021 stands quashed and set aside.
- (iii) Appeal No.17 of 2019 stands remitted to the file of the State Government for afresh decision on merits.
- (iv) The parties shall appear before the State Government on 15 May 2023.
- (v) The Petitioner/Appellant shall not seek any adjournment.
- (vi) The State Government shall decide Appeal No.17 of 2019 on its own merits and in accordance with law.
- (vii) It is hereby made clear that this Court has not entered into the merits of the matter and all contentions of all the parties including the tenability of the appeal are kept open for consideration by the State Government.

(N.J.JAMADAR, J.)