

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6805 OF 2022

Popat Pandurang Pawar
Age 61 years, Occ. Business,
R/at Indapur, Butter gali,
Taluka Indapur, Dist. Pune.

....PETITIONER

V/S

- 1 The State of Maharashtra
through Principal Secretary,
Co-operative Department
- 2 The Hon'ble Co-operative Minister,
Maharashtra State, Mantralaya,
Mumbai.
- 3 The Registrar Co-operative Society,
Pune, Maharashtra,
- 4 Suvarnayug Gramin Bigar Sheti
Sahakari Patasauntha Ltd.
Nimgav Ketki,
Taluka Indapur Dist. Pune.
Through Secretary
Virag Dilip Hevle

....RESPONDENTS

...

Mr. Vaibhav V. Ugle for the Petitioner.
Mr. V.S. Nimbalkar, AGP for Respondent Nos.1 to 3-State.
Mr. Anant Vadgaonkar for Respondent No.4.

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CORAM: SANDEEP V. MARNE, J.
DATE : SEPTEMBER 06, 2023.

JUDGMENT:

1 **Rule.** Rule is made returnable forthwith. Heard finally with the consent of learned Counsels appearing for the parties.

2 By this Petition, Petitioner challenges order dated 12 May 2022 passed by the Hon'ble Minister, Co-operative and Textile Department, setting aside order dated 24 January 2020 passed by Registrar of Co-operative Societies. The Registrar of Co-operative Societies has refused to approve the resolution adopted by Respondent No.4-Society expelling Petitioner as a member of Respondent No.4-Society.

3 Briefly stated, facts of the case are that – Petitioner was a member of Respondent No.4-Society. He was elected as a Vice Chairman of Respondent No.4-Society. He had aired certain grievances relating to transactions in Respondent No.4-Society. Petitioner claims that other Directors of the Respondent No.4-Society pressurised him to resign from the post of Vice Chairman on 12 June 2017. On 5 February 2019 the Special General Body Meeting of Respondent No.4-Society adopted a resolution for expulsion of Petitioner as member of the Respondent-Society. The resolution was sent for approval of the Registrar of Co-operative Societies, who refused to grant approval by order dated 24 January 2020. Aggrieved by the decision of the Registrar of the Co-operative Societies, Respondent No.4-Society filed an appeal before the Hon'be Minister, Co-operative and Textile Department, who has set aside the decision of Registrar of Co-operative Societies and has approved

resolution adopted by the Respondent No.4-Society for expulsion of Petitioner as a member.

4 Mr. Ugle, the learned counsel appearing for the Petitioner would contend that the Hon'ble Minister has erroneously set aside the order of the Registrar of Co-operative Societies, who had taken the entire facts and circumstances of the case in consideration. That the Registrar of Co-operative Societies had recorded a finding that the Respondent-Society failed to produce any evidence as to how Petitioner's conduct was detrimental to the interest of Society. He would submit that the Hon'ble Minister has erroneously accepted the contention of the Society about withdrawal of deposits by depositors on account of publication of news related to resignation of Petitioner. That the findings recorded by the Hon'ble Minister are perverse and therefore his order is liable to be set aside.

5 *Per contra*, Mr. Vadgaonkar, the learned counsel appearing for the Respondent No.4-Society would oppose the Petition and support the order passed by the Hon'ble Minister. He would submit that Petitioner was required to tender his resignation from the post of Vice-Chairman after initiation of proceedings against him under sections 73CA and 78 of the Maharashtra Co-operative Societies Act, 1960 (**the Act of 1960**). That while tendering the resignation, Petitioner defamed the image of Respondent-Society by giving false publications in newspapers. That such an act on his part resulted in maligning the image and loss of trust

of Society in the eyes of depositors. That Respondent- Society being a co-operative Credit Society, loss of trust resulted in withdrawal of several deposits by the depositors. That Petitioner was clearly indulging in acts detrimental to the interest of the Respondent-Society and was rightfully expelled from membership by adopting resolution dated 18 July 2011. He would further submit that out of 109 members present in the Special General Body Meeting, 106 members voted for expulsion of Petitioner. That therefore, this Court may not interfere in the decision of the Hon'ble Minister.

6 I have considered the submissions canvassed by the learned counsels appearing for the parties. Petitioner was sought to be expelled under section 35 of the Act 1960, which reads thus:

“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.”

7 In the present case, there is no dispute that the resolution has been adopted by majority of not less than three-fourths of the members entitled to vote who were present in the Special General Body Meeting. The Registrar of Co-operative Societies has therefore arrived at a conclusion that the resolution adopted by the Special General Body Meeting was technically correct. However, the Registrar of Co-operative Societies has thereafter proceeded to examine the material produced before him for considering whether there existed any ground for Petitioner's expulsion.

8 Under section 35 of the Act 1960, a member can be expelled if he commits any act which is detrimental to the interest or proper working of a Society. Therefore, it was incumbent for the Society to prove that indulgence of acts by Petitioner was detrimental to its interest or proper working before the Registrar. The main allegations against Petitioner were filing complaints by him against the Chairman with various authorities, remaining absent for meetings, publication of news reports defaming the Society and withdrawal of deposits by depositors on account of loss of trust. The Registrar has arrived at a conclusion that mere filing of complaints by Petitioner could not have been a ground for his expulsion. He further arrived at a conclusion that no evidence was produced that Petitioner was responsible for publication of news against Respondent-Society. The Hon'ble Minster has, on the other hand, held Petitioner responsible for publication of news against Respondent-Society resulting in withdrawal of deposits.

9 I have gone through the two newspapers reports placed at pages Nos.68 and 69 of the paper book. The news are about resignation by five Directors of Respondent-Society, including Petitioner. It is alleged in the news reports that the said Directors resigned on account of mismanagement by the Chairman and other Managing Committee Members.

10 It is Respondent No.4-Society's contention that publication of the said newspapers reports resulted in withdrawal of deposits by several depositors. The news reports were published on 21 November 2017. The resolution for expulsion of Petitioner has been adopted two years later on 18 July 2019. The learned Counsel appearing for Respondent No.4-Society has placed reliance on list of depositors who had withdrawn their deposits at page 102 of the paper book. That list is dated 30 September 2019. Thus as on the date of adopting the resolution dated 18 July 2019, this list was apparently not prepared or was not made available for consideration of the voting members. However, it appears that the same was prepared for being placed before the Registrar of Co-operative Societies for approval of the resolution. The list contains names of total 27 depositors who have allegedly withdrawn total amount of Rs.18,91,546/-. However, the list does not give the dates of withdrawal. The said list states that 27 depositors withdrew their deposits after publication of news. In absence of the exact dates of withdrawal of deposits, it is difficult to connect the said withdrawals with the newspaper reports.

11 The learned Counsel appearing for Respondent No.4-Society has also placed reliance on various letters submitted by depositors stating that they had withdrawn the deposits on account of publication of news reports. Perusal of the said letters would indicate that they do not bear any dates. The dates of withdrawal of deposits are also not reflected in the letters. It is also difficult to believe that any depositor will submit a letter in writing justifying the reason for withdrawal of deposits. Every depositor is entitled to withdraw his deposit at his/her will and does not have to assign any reason. The fact that the Respondent No.4-Society was able to collect undated letters from several depositors assigning almost same reason would infact cast a doubt upon the objective with which such letters were obtained. Also there is a two year gap between the news reports and adoption of resolution for Petitioner's expulsion. If indeed publication of news reports was the only reason for 27 depositors to withdraw their deposits, the question as to why the Society waited for two years to expel Petitioner begs an answer. In absence of exact dates of withdrawal, it will have to be assumed that 27 depositors have possibly withdrawn their deposits during two year period between 21 November 2017 to 30 September 2019. Withdrawal of deposits by just 27 members in 2 year period cannot be treated as abnormal. It is therefore, difficult to believe that the withdrawals of deposits is linked to the publication of news reports.

12 The other two grounds of failure to remain present for three meetings of Board of Directors and withdrawal of show cause notice

dated 4 August 2018 initiated on Petitioner's complaint, are not reasons enough to arrive at the conclusion that the said conduct was detrimental to interest or proper working of the Respondent No.4-Society. Merely because the show-cause notice issued in pursuance of Petitioner's complaint about the Chairman was subsequently withdrawn would not mean the Petitioner has acted detrimental to the interest or proper working of the Respondent-Society.

13 Perusal of the order of the Hon'ble Minister would show that the main ground which weighed with the Hon'ble Minister for reversing the decision of the Registrar of Co-operative Societies was withdrawal of deposits by the depositors of Respondent-Society. The Hon'ble Minister has linked such withdrawals to maligning Society's image in the eyes of members in rural areas. I have however arrived at a conclusion that Respondent No.4-Society has failed to prove any link between withdrawal of the deposits with the publication of news reports. The finding recorded by the Hon'ble Minister thus suffers from the vice of perversity.

14 Resultantly, the Petition succeeds. The order passed by the Hon'ble Minister on 12 May 2022 is set aside and order dated 24 January 2020 passed by the Registrar of Co-operative Societies is confirmed. The Writ Petition is accordingly allowed. Rule is made absolute.

(SANDEEP V. MARNE, J.)