

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14594 OF 2022

Vishal Junnar Sahakari Pat Pedhi Ltd., Mumbai ... Petitioner

Versus

The State of Maharashtra and Ors. ... Respondents

...

Mr. Umeshti Pawar, for Petitioner.

Mrs. V. S. Nimbalkar, AGP for Respondent Nos.1 to 3.

Mr. Suryajeet P. Chavan, for Respondent Nos.5 to 8.

...

CORAM: SANDEEP V. MARNE, J.

DATE : 01 NOVEMBER 2023.

P. C.:

This petition challenges Order dated 30 May 2022 passed by the Minister-Cooperation. After conducting Inquiry under Section 88 of the Maharashtra Cooperative Societies Act 1860, the Deputy Registrar-cum-Inquiry Officer passed Order / Inquiry Report dated 28 March 2016 holding Directors of the Society responsible for various amounts for recovery towards loss occurred to the Society. The said Directors have filed Appeal No.514 of 2016 before Minister-Cooperation challenging Order / Inquiry Report dated 28 March 2016. It is undisputed position that said Appeal No.514 of 2016 continues to remain pending before the Minister-Cooperation.

2. In the meantime since the order under Section 88 of the MCS Act 1960 was passed against the two Directors (Suhas Ramchandra Dhumal and Shivaji Laxman Barge), they came to be disqualified under provisions of Section 73-CA(1) of the MCS Act 1960. Only the said two disqualified Directors (Suhas Ramchandra Dhumal and Shivaji Laxman Barge) were expected to challenge the decision dated 10 August 2021 declaring them disqualified under provisions of Section 73-CA(1). However in a bizarre manner 04 Directors (including two disqualified Directors) jointly filed Appeal No.464 of 2021 challenging the order dated 10 August 2021 before the Minister-Cooperation. In their Appeal they made prayer seeking stay to the Order dated 28 August 2016 passed under provisions of Section 88. As a matter of fact, prayer to seek stay of Order dated 28 March 2016 could not have been sought in Appeal No.464 of 2021, when that Order dated 28 March 2016 is already made subject matter of Appeal No.514 of 2016.

3. On account of confusion created by 04 Directors who filed Appeal No.464 of 2021, the Minister-Cooperation while allowing Appeal No.464 of 2021, has proceeded to set aside not just Order dated 10 August 2021 passed under provisions of Section 73-CA(1) but also order dated 28 March 2016 passed under Section 88 ignoring the fact that challenge to the Order dated 28 March 2016 was not subject matter of Appeal No.464 of 2015.

4. Consequently the entire Order dated 30 May 2022 passed by the Minister-Cooperation is rendered erroneous. Accordingly Order

dated 30 May 2022 passed by the Minister-Cooperation is set aside and the Appeal No.464 of 2021 is restored on his file. Minister-Cooperation shall proceed to decide both Appeal No.514 of 2016 and 464 of 2021 without being influenced by any of the observations made in the Order dated 30 May 2022. With the above directions Writ Petition is disposed of. There shall be no order as to costs.

SANDEEP V. MARNE, J.

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