IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13583 OF 2022

Bibhishan Rama Gore … Petitioner
Versus
Divisional Joint Registrar Co-Op. Societies,
Pune And Ors. … Respondents

…

Mr. Sujeet Bugade, for Petitioner.
Mrs. V. S. Nimbalkar, for Respondent.

…

CORAM: SANDEEP V. MARNE, J.
DATE : 18 OCTOBER 2023.

P. C.:

This petition is filed by the Petitioner challenging order dated 02 August 2022 passed by the Divisional Joint Registrar, Pune rejecting Revision Application No.377 of 2021. The Revision Application was filed by the Petitioner aggrieved by the acceptance of test audit report conducted by the auditor nominated under provisions of Section 81(3)(c) of the Maharashtra Cooperative Societies Act, 1960.

2. Petitioner was apparently working as a Recovery Officer in the Respondent No.3 Cooperative Credit Society. Additionally he also appears to be a borrower from whom various amounts are due and sought to be recovered by Respondent No.3-Society. The Petitioner filed

complaints in respect of test audit conducted about amounts of Respondent No.3-Society. On the basis of complaints filed by the Petitioner, the District Deputy Registrar, Cooperative Societies, Pune appointed an auditor to conduct test audit under provisions of Section 81(3)(c) of the Act of 1960. Auditor accordingly conducted test audit and submitted his report. Petitioner got aggrieved by acceptance of test audit report and filed Revision Application No.377 of 2021 before the Divisional Joint Registrar. By order dated 02 August 2022, the Divisional Joint Registrar has proceeded to reject the Petitioners Revision Application.

3. I have heard Mr. Bugade, the learned counsel appearing for Petitioner. He would submit that since the test audit was directed to be conducted on account of complaints filed by Petitioner, he ought to have heard before accepting the test audit report. He would submit that only officials of the Cooperative Credit Society have been heard whereas the Plaintiff, at whom instance the test audit was directed to be conducted, has not at all been heard before accepting the test audit report. Mr. Bugade would further submit that Cooperative Credit Society has committed several irregularities in financial transactions. He would take me through several notices addressed at the instance of Petitioner pointing out the irregularities in the loan transactions of Respondent No.3 Cooperative Credit Society.

4. Mrs. Nimbalkar, learned AGP would oppose the petition and

support the order passed by the Divisional Joint Registrar.

5. I have considered the submissions canvassed by the learned counsels for the parties. Though Mr. Bugade has strenuously contended before me that Petitioner must be granted opportunity of being heard before accepting test audit report of audit conducted under provisions of Section 81(3)(c) of the Act of 1960, he has not be able to point out any specific provision under which said opportunity must be granted to the complaint at whose instance the test has directed to be conducted. Provisions of Section 81(3)(c) reads thus :-

> **81.**
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> 3. (c) If it is brought to the notice of the Registrar that the audit report submitted by the auditor does not disclose the true and correct picture of the accounts, the Registrar or the authorised person may carry out or cause to be carried out a test audit of accounts of such society. The test audit shall include the examination of such items as may be prescribed and specified by the Registrar in such order.

6. Thus under clause (c) of Sub-Section 81, no opportunity is required to be given to any complainant before the Registrar accepts the test audit report. The provisions requires that Registrar should be satisfied about findings recorded in the test audit. Once the Registrar is satisfied about the test audit report, it is not necessary for the Registrar to grant any opportunity of hearing to the Complainant at whose instance, the test audit report is directed to be conducted.

7. Mr. Bugade also sought to rely upon provisions of Rule 71 of the Maharashtra Cooperative Societies Rules 1961 which prescribes procedure for conducting inquiry and inspection. However even under Rule 71, there is no provision for grant of any opportunity to the Complainant before acceptance of test audit report.

8. In the present case the Petitioner was not a Recovery Officer of Respondent No.3 but he is also a borrower. Mr. Bugade has fairly admitted that some amounts are due and payable by the Petitioner to Respondent No.3-Society and recovery certificate against Petitioner has also been issued. I have also gone through the 03 notices addressed on behalf of Petitioner on which Mr. Bugade placed strong reliance. The said notices are in respect of some sale transactions pertaining to the years 2005 and 2010. From the said notices as well as pleadings in the petition, the real intention of the Petitioner appears to somehow involve the Respondent No.3-Society in litigation for the purpose of escaping liability arising out of recovery certificate issued against him. The purpose behind filing present petition therefore does not appears to be bonafide.

9. I therefore do not find any merit in the petition. The Writ Petition is accordingly rejected.

SANDEEP V. MARNE, J.

KISHOR VISHNU KAMBLE

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Date: 2023.10.21 11:46:24 +0530