

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8037 OF 2021

Mukund Kokil

... Petitioner

Versus

State of Maharashtra and Ors.

... Respondents

.....

Mr.Pralhad Paranjape i/b. Mr.Abhishek Adke, Advocate for the
Petitioner.

Mr.M.M. Pabale, AGP for Respondent – State.

.....

CORAM : NITIN JAMDAR AND
MANJUSHA DESHPANDE, JJ.

DATE : 13 DECEMBER 2023.

P.C. :

Heard the learned counsel for the parties.

2 The Petitioner has challenged the initiation of inquiry under Section 88 of the Maharashtra Co-operative Societies Act, 1960 (MCS Act) by order dated 24 August 2021 passed by Respondent No.3–Additional Registrar, Co-operative Societies, Maharashtra State, Pune.

3 The Petitioner is a former director of Respondent No.4–Bank, which is under liquidation and represented through an Administrator. After the inquiry was initiated on 24 August 2021, communication was addressed by the Inquiry Officer to the

Petitioner for remaining present and, it is at this stage, the Petitioner has moved this Petition.

4 According to the Petitioner, an inquiry under Section 88 of the MCS Act cannot continue in view of the fact that an order came to be passed on 19 August 2019, by Respondent No.2—the Commissioner of Co-operation and Registrar, Co-operative Societies, Pune under Section 21 of the MCS Act read with Rule 89(17) of Maharashtra Co-operative Societies Rules, 1961. According to the Petitioner, since the Society is now under liquidation and a Custodian is appointed, its status as the Co-operative Society does not exist and, therefore, the proceedings initiated under Section 88 of the MCS Act cannot continue.

5 In the notice dated 24 August 2021 there is no reference to the earlier order dated 19 August 2019. The Petitioner instead of pointing out this above position has directly filed an Application. According to us, considering the fact that the inquiry initiated under Section 88 of the MCS Act if the Petitioner had any objections or say to this notice, the Petitioner should approach the Additional Registrar with the above mentioned objections. The learned counsel for the Petitioner, on instructions, states that the Petitioner will approach Respondent No.3 with the above objections and the other points that the Petitioner seeks to raise. By interim order passed by this Court on 13 December 2021, the inquiry has been stayed.

6 Therefore, we dispose of the Petition directing that before proceeding further with the inquiry, if the Petitioner lodges objections within a period of two weeks from uploading this order then the Additional Registrar will rule on the objections by passing a written order and thereafter adopt such course of action as warranted in law. All questions are kept open including the question of Petitioner's locus.

7 Writ Petition is disposed of.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)