

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15960 OF 2022

Loni Vivid Karyakari Sahakari Sanstha Maryadit ...Petitioner
Versus
Hanmant Anna Shinde and Ors. ...Respondents

...
Mr. Manjeet Lotankar a/w Mr. P.D. Dalvi, Mr. Dhananjay Pananware for
Petitioner.

Mr. P. P. Pujari, A.G.P. for Respondent Nos. 38 to 40.

...

CORAM : SANDEEP V. MARNE, J.
DATE : SEPTEMBER 12, 2023.

P.C.:

1. Leave to amend Petition is granted. Amendment to be carried out forthwith. The Petitioner-society is permitted to challenge order dated 1 August 2023 passed by the Assistant Registrar of Cooperative Society, Vaduj, Taluka Khatav.

2. Considering the nature of order that is being passed, it is not necessary to issue notices to the Respondents.

3. By this Petition, Petitioner-Society challenges order dated 27 October 2022 passed by the Divisional Joint Registrar, Cooperative Society, Kolhapur Division, Kolhapur rejecting the Revision Application No.202 of 2017.

4. The Petitioner Society had preferred revision before the Divisional Joint Registrar against the order dated 23 June, 2017 passed by Assistant Registrar of Cooperative Society Vaduj, Taluka Khatav.

5. I have heard the learned counsel for Petitioner and have perused the documents along with Petition.

6. It appears that the Assistant Registrar passed an order on 23 June 2017 under the provisions of Section 23-1(A)(2) of the Maharashtra Cooperative Societies Act 1960, holding that the Respondent Nos.1 to 45 before it acquired deemed membership of Petitioner-Society. However, though the revision filed by Petitioner-Society is treated as rejected, the Divisional Joint Registrar has recorded following findings :-

“ In view of the aforesaid observation, I find that there are irregularities in the process but as per the policy of the State Government, the primary Agricultural Credit society have to enrolled members who are complying the provisions of Act, Rules and bye laws of the society. Therefore, in the interest of natural justice and to secure the ends of natural justice, if the opponent Nos.2 to 45 are given an opportunity to comply the provisions of membership then no harm will be caused to either side.”

7. Even the operative portion of the order of Divisional Joint Registrar reads thus :

ORDER

“ The Revision application No.202 of 2017 is hereby rejected.

The Applicant society is hereby directed to get comply from the Opponent No.2 to 45 regarding the membership as per the provisions of bye laws of the society.

No order as to costs.”

8. Thus, though the revision application filed by Petitioner-Society is rejected, it appears that the Divisional Joint Registrar has not agreed with the ultimate direction issued by Assistant Registrar for grant of deemed membership to the persons concerned. The Divisional Joint Registrar has granted opportunity to opponent Nos.2 to 45 before it to comply with the requirements of membership as per the provisions of bye-laws of the Society. The order passed by Divisional Joint Registrar on 27 October 2022 would mean that the said persons, who are desirous of becoming members are required to comply with conditions of membership under the bye-laws of the Society.

9. The learned counsel for Petitioner would draw my attention to the order dated 1 August 2023 passed by Assistant Registrar of Cooperative Societies, under which the society is threatened with action under the provisions of Sections 78 & 146 of the Act of 1960 for failure to grant membership to the persons concerned. After going through the order dated 1 August 2023, it appears that the Assistant Registrar has proceeded on an

assumption is if the order passed by him on 23 June 2017 has been fully upheld by the Divisional Joint Registrar.

10. As observed above, though the Revision Petition is treated as rejected, the Divisional Joint Registrar has directed the Petitioner-Society to get the compliance from opponent Nos.2 to 45 regarding membership as per the provisions of the bye-laws of the society. The learned counsel for Petitioner has submitted that none of the said opponent Nos.2 to 45 have approached the society for complying with the deficiencies in their applications. In that view of the matter, the order passed by the Assistant Registrar on 1 August, 2023 appears to be erroneous.

11. Therefore, while upholding the order passed by the Divisional Joint Registrar dated 27 October 2022 and while disposing of the present Petition, the order passed by the Assistant Registrar on 1 August 2023 is required to be set aside.

12. The Petitioner-Society shall comply with the order passed by the Divisional Joint Registrar dated 27 October 2022 by sending notices to the persons concerned for making compliance as directed by the Divisional Joint Registrar within a period of two weeks from today. Upon compliance with the necessary requirements, the Society shall forthwith admit them as its members.

Till such exercise is carried out, the Assistant Registrar shall not act on the letter/order dated 1 August 2023.

13. The Petition is accordingly disposed of.

(SANDEEP V. MARNE, J.)