

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION (WP) NO.5446 of 2018

- 1) Allied Employees Cooperative Housing Society Ltd, through its Chairman, Suryabhan s/o Vitthobaji Gawali, aged About 77 yrs Occup Rtd. Govt. Servant R/o Plot No.9 Allied Society, Anantnagar Nagpur -440013

.... Petitioner(s)

// VERSUS //

- 1) The Deputy Registrar, City-I Cooperative Societies, 3rd Floor, 37-A Pragati Colony Above Central Bank of India, Chatrapati Chowk, Wardha Road, Nagpur.
- 2) The Divisional Joint Registrar Co-operative Societies, Dhanwate Chamber's Sita Buldi, Nagpur-440012.

... Respondent(s)

Ms Rashi A. Deshpande, Advocate for the Petitioner/s

Ms H.N. Jaipurkar, AGP for the Respondent Nos.1 and 2/State

CORAM : ANIL S. KILOR, J.

DATED : 28.06.2023

ORAL JUDGMENT :

1. Heard.

2. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

3. The petitioner is a registered society under the Maharashtra Co-operative Societies Act, 1960 (in short “the Act of 1960”). The Deputy Registrar, Co-operative Societies, Nagpur City-I passed an order on 17.11.2016, holding that the registration of the society was cancelled on 14.02.1997 and unless the said order is set aside, existence of the petitioner society cannot be accepted.

4. The said order dated 17.11.2016 was carried in revision before the Divisional Joint Registrar, Co-operative Societies, Nagpur. The Divisional Joint Registrar has maintained the order of the Deputy Registrar, Co-operative Societies vide impugned order dated 20.03.2018, the same is the subject matter of this petition.

5. Both the authorities, while holding that the registration of the petitioner society was cancelled on 14.02.1997, have also recorded the findings that the record in respect of such cancellation of registration, is not available with the office of the Deputy Registrar, Co-operative Societies, Nagpur-I. It is further observed that, there

is a Gazette Publication in the Government Gazette dated 24.01.2008 in respect of such cancellation. Even if the Government Gazette Publication is considered, it appears that this publication was made after 11 years of the alleged cancellation of the registration of the petitioner society.

6. It is pertinent to note hear that on 17.05.2006, an Administrator was appointed on the petitioner society. Thereafter, the elections were held thrice after 2007.

7. It is surprising to note that if the registration was cancelled on 14.02.1997, how the Administrator was appointed by the District Deputy Registrar under Section 78(1)(ii) of the Act of 1960, on the petitioner society, on 17.05.2006.

8. Hence, the record was called from the Divisional Joint Registrar for perusal. Accordingly, the learned AGP has made it available and having gone through the same, it is noticed that there is no record about the cancellation of the registration of the petitioner society. Even in both the orders impugned, there is no mention on what ground the registration was cancelled, or whether

any opportunity of being heard was given to the petitioner society before the alleged cancellation of the registration.

9. In absence of any record, more particularly the order of cancellation of registration, the findings recorded by both the authorities below that, unless the petitioner society gets the order of cancellation of registration set aside, the existence of the petitioner society cannot be accepted, is erroneous.

10. It is apparent from the record that there is no basis for holding that the registration of the petitioner society was cancelled on 14.02.1997. No explanation is coming forward for delay in publishing notification in Government Gazette on 24.01.2008 i.e. after 11 years about cancellation of registration. There is nothing on record even to show that the order of cancellation of registration was served upon petitioner society.

11. Thus, in light of the above referred findings, coupled with the fact that in 2006 the Administrator was appointed and thereafter, the elections were held time to time, it would not be justifiable to say that the petitioner society is not in existence and it's registration

was cancelled on 14.02.1997. Accordingly, I am of the opinion that the writ petition needs to be allowed. Hence, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The order dated 17.11.2016 passed by Deputy Registrar, Co-operative Societies, Nagpur City-I, is hereby quashed and set aside.
- (iii) The order dated 20.03.2018 passed by Divisional Joint Registrar, Co-operative Societies, Nagpur, is hereby quashed and set aside.

Rule accordingly. No costs.

[ANIL S. KILOR, J.]