



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 5345 OF 2022

PETITIONER :

Yavatmal Zilla Majoor Kamgar Sahakari
Sansthancha Sangh No.2, Yavatmal,
Through its President Amit Vijayrao
Deshmukh, Aged about 38 years,
Occu : Labour, R/o In front of Wadhawala
Gin, Pusad Road, Gandhi Nagar, Digras,
Tq. Digras, Dist. Yavatmal.

VERSUS

RESPONDENTS :

1. The State of Maharashtra
Through its Secretary,
Ministry of Cooperation,
Marketing and Textile Department,
Mantralaya, Mumbai - 32.
2. The Divisional Joint Registrar,
Cooperative Societies,
Amravati Division, Amravati.
3. The District Deputy Registrar of
Cooperative Societies, Yavatmal
District Yavatmal.
4. Yavatmal Zilla Majoor Kamgar
Sahakari Sansthancha Sangh Ltd.,
Yavatmal R.No.129 through its
President, Vilas Sudhakar Mahajan,
Aged about 50 years, Occ : Business,
R/o Yavatmal, Tahsil and
District Yavatmal.

Shri R. L. Khapre, Senior Counsel with Shri Pushakar Deshpande,
Advocate for petitioner.

Ms. Payal Bawankule, Assistant Government Pleader for respondent
Nos.1 to 3.

Shri Firdos Mirza, Advocate for respondent No.4.

CORAM:- ANIL S. KILOR, J.

DATED : 27/10/2023.

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.

2. The petitioner - society applied for registration of new society under the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as the "Act of 1960"), thereupon a notice was published in newspaper namely 'Hantar' on 22/07/2019. As no objections were received in pursuance of the said advertisement on 30/07/2019, the District Deputy Registrar, Yavatmal registered the petitioner - society under the provisions of the Act of 1960.

3. The respondent No.4 - Yavatmal Zilla Majoor Kamgar Sahakari Sangh thereupon filed an appeal under Section 152 of the Act of 1960 before the Divisional Joint Registrar, Co-operative Societies, Amravati raising various grounds including that, there was no notice issued to the respondent - society and no hearing was granted.

4. The registration was also challenged on the ground that when already one society is in existence with respondents, permission to the petitioner - society ought not to have granted.

5. The Divisional Joint Registrar vide order dated 11/10/2019 allowed the said appeal and thereby, cancelled the registration granted in favour of the petitioner - society. In view of Section 4 of the Act of 1960, it is held that no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development of the co-operative movement, or the registration of which may be contrary to the policy directives which the State Government may, from time to time, issue. It is further held that it is not proper to form another society when one society is in existence.

6. The petitioner - society feeling aggrieved by the said order dated 11/10/2019, preferred revision under Section 154 of the Act of 1960 before the Hon'ble Minister for Co-operation, Mumbai.

7. Thereupon, the Hon'ble Minister heard the parties and passed the impugned order dated 16/21-06/2022, rejecting the revision application. The Hon'ble Minister concurred with the finding recorded by the Divisional Joint Registrar while dismissing the revision.

8. After going through the record and on perusal of the impugned orders passed by the Hon'ble Minister as well as the Divisional Joint Registrar, though both have held that there should not have another society when one society is already in existence, they have not referred or discussed any such policy of the Government or any such provision.

9. The letter dated 11/10/2011 which they have referred to is in relation to Sindhudurg District and said letter was issued by Hon'ble Minister for Co-operation. The said letter does not lay down any policy for the State of Maharashtra. There is no discussion about how the said letter is applicable to the present case.

10. Mere reproduction of provision is not sufficient, but the authorities have to record the findings showing application of mind. It must reflect from the order that material is available on record which would show that registration of the petitioner - society would have an adverse effect on the existing society. In the present matter, no such findings are recorded.

11. Moreover, there is no reference to any of the Policy of the Government, which prohibits registration of another society when one society is already in existence.

12. Thus, I am of the considered view that the Divisional Joint Registrar has not applied its mind while cancelling the registration of the petitioner - society and without discussing or recording the reasons that how and why the registration of the petitioner is liable to be cancelled, the same has been cancelled.

13. Similar mistake was committed by the Hon'ble Minister while upholding the order of Divisional Joint Registrar and hence, both the orders vitiate and are liable to be quashed and set aside.

14. Accordingly, I pass the following order :-

ORDER

- i] The writ petition is partly allowed.
- ii] The impugned order dated 11/10/2019 passed by the Divisional Joint Registrar, Co-operative Societies, Amravati and the order dated 21/06/2022 passed by the Minister for Co-operation, Mumbai are hereby quashed and set aside.
- iii] The matter is remanded back to the Divisional Joint Registrar, Cooperative Societies, Amravati to decide the appeal afresh after hearing both the parties.
- iv] The parties shall appear before the Divisional Joint Registrar, Amravati on 06/11/2023 at 11.00 a.m.

v] The Divisional Joint Registrar, Amravati shall decide the appeal after hearing both parties within one month from the date of appearance of the parties.

vi] The parties are at liberty to file the documents and file necessary affidavits, if they so desire, within 15 days from 06/11/2023 and thereafter, the Divisional Joint Registrar, Amravati shall decide the matter within one month.

vii] It is made clear that till then, the registration of petitioner - society is kept in abeyance.

viii] The registration of petitioner - society is stayed, till the decision of the Divisional Joint Registrar, Amravati.

15. The petition is disposed of accordingly. No order as to costs.

[ANIL S. KILOR, J.]