

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

Writ Petition No. 4593 of 2018

Sahakar Maharshi Swargiya Bapuraoji Deshmukh

Sahakari Sut Girni Maryadit, Wardha

Vs.

State of Maharashtra and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.K.Bhoyar, counsel for the petitioner.

Ms. H.N.Jaipurkar, AGP for respondent Nos.1 to 3.

CORAM : ANIL S. KILOR, J.

DATED : 12.01.2023.

P.C.

Heard the learned counsel for the respective parties.

2. In the present writ petition, the challenge is raised to the order passed by the Hon'ble Minister, Cooperation, Marketing and Textile, dated 02/01/2018, in exercise of powers under section 154 of the Maharashtra Cooperative Societies Act, 1960 (for short 'Act of 1960').

3. The respondent No.1-Director, Textile-cum-Additional Registrar, Cooperative Societies,

Maharashtra State, Nagpur on 03/12/2016, in exercise of powers under section 83 of the Act of 1960, initiated enquiry against the petitioner-Society.

4. Feeling aggrieved by the same, the said order was challenged before the Hon'ble Minister, who rejected the revision application vide impugned order dated 02/01/2018. The same is the subject matter of the present petition.

5. Shri Bhoyar, learned counsel for the petitioner, submits that the enquiry was directed under section 83 of the Act of 1960 on the complaint of a member of the Society; whereas, there shall be demand by at least 1/5th members of the society. He, therefore, submits that the order dated 03/12/2016, passed by respondent No.2-Director, Textile-cum-Additional Registrar, Cooperative Societies vitiates.

6. It is further submitted that the Hon'ble Minister did not take into consideration the said aspect and dismissed the revision contrary to the provisions of law.

7. On the other hand, the learned AGP opposed the present petition and submitted that under section 83 of the Act of 1960, respondent No.2 *suo motu* can also initiate enquiry and therefore, no error

has been committed by respondent No.2 for exercising powers under section 83, in this case. I have perused the documents filed along with the petition and the order dated 03/12/2016 issued by respondent No.2 and the order dated 02/01/2018 passed by the Hon'ble Minister.

8. In this case, though earlier the respondent No.2 had received complaint made by the former Chairman of the petitioner-society and whereupon respondent No.3-Regional Deputy Director issued communication to remain present for enquiry. The order dated 03/12/2016 does not refer to any such show cause notice or hearing.

9. The contents of the order sufficiently show that respondent No.2 had taken into consideration the audit reports and material placed before respondent No.2 and thereupon he took the *suo motu* action in the matter, which is permissible under section 83 of the Act of 1960.

10. The Hon'ble Minister while dismissing the revision application of the petitioner has also held that the action initiated by respondent No.2, was *suo motu* and it was not on the complaint made by a member of the society.

11. Section 83 of the Act of 1960, says that the Registrar may *suo motu* or on the application of the 1/5th members of the society or on the basis of special audit report under the Third Proviso to sub-section(5) (b) of section 81, himself or by a person duly authorized by him in writing in this behalf shall hold an enquiry into the constitution, working and financial condition of the society.

12. Thus, it is clear that an enquiry can be initiated under section 83 of the Act of 1960, *suo motu* or on the application of 1/5th members of the society or on the basis of the special audit report.

13. At this stage, the learned counsel for the petitioner has relied upon a judgment of the Coordinate Bench of this Court in the case of *Ashok Saha and others v. State of Maharashtra and others*, reported in **2011(3) ALL MR 805**. There cannot be any dispute about the law laid down in this judgment that there are three modes to initiate the enquiry, one is *suo motu*, another is on the application of 1/5th members of the society and third is special audit report. In that view of the matter, the judgment in the case of *Ashok Saha v. State of Maharashtra* (*supra*) is of no help to the petitioner.

14. Hence, I do not find any fault with the exercise of powers by respondent No.2 and further by the Hon'ble Minister in rejecting the revision application. Accordingly, the writ petition is dismissed. No order as to costs.

[ANIL S. KILOR, J.]