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905wp2647.24

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

905 WRIT PETITION NO. 2647 OF 2024

AJAYKUMAR KAMALKISHOR BAJAJ AND ANOTHER

....Petitioners

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

.....Respondents

Mr. M. D. Narwade, Advocate h/f Mr. S. T. Jagtap, Advocate for
the petitioners

Mr. R. R. Tandale, AGP for the respondents/State

Mr. Swapnil B. Joshi, Advocate h/f J. P. Legal Associates for
respondent Nos. 4 and 5

WITH

906 WRIT PETITION NO. 3841 OF 2023

SHIVRAM SAMPATRAO NALEGAVKAR

....Petitioners

VERSUS

**THE STATE OF MAHARASHTRA THR ITS SECRETARY AND
OTHERS**

.....Respondents

Mr. C. V. Thombre, Advocate for the petitioner

Ms. Nikita N. Gore, Advocate for respondent No.5

Mr. Swapnil B. Joshi, Advocate h/f J. P. Legal Associates for
respondent Nos. 4 and 7

Ms. M. L. Sangit, AGP for the respondents/State

CORAM : S. G. MEHARE, J.

DATE : 08th MARCH, 2024

P. C.

1. Issue notice to the respondents.
2. Learned AGP waives service of notice in respective matters for the respondents/State.
3. Mr. Joshi, learned counsel waives service for respondent Nos. 4 and 7 in wp/3841/2023 and respondent Nos. 4 and 5 in wp/2647/2023.
4. The guarantor /principal borrower has impugned the same order in writ petition No. 3688/2021. Hence, this petition, being on the same ground should be heard.
5. Heard the learned counsel for the petitioner and respondents.
6. Contention of the petitioner is that impugned orders

are not in consonance with Rule 86F of the Maharashtra Cooperative Societies Rules, 1961. They have referred to the concluding part of the impugned order and vehemently argued that a mechanical order has been passed without applying mind. The authority did not assign reasons for rejecting or accepting contention of the parties. It is apparently in violation of the above rule. To booster their argument they relied upon the case of Sandeep Polymers Pvt Ltd and others Vs State of Masharashtra and others 2010 (7) Mh.L.J. 538 and Ambadas Vinayak Pisolkar Vs The State of Maharashtra and others in Writ Petition No.3688/2021 dated 02-01-2024 judgment delivered by me.

7. Learned counsel for the bank argued that while passing the orders authorities have considered the entire contentions of the parties and in consonance thereof, he has recorded the conclusion. He read the impugned order and submitted that the impugned orders are sufficient to understand, what he wanted to say for arriving at the conclusion.

8. The authorities, have discussed the case of both parties and recorded the conclusion in two lines. On reading the conclusions, it is appeared that the authority did not discuss the effect of the evidence and the material produced by the respective parties. The impugned orders are apparently violative the Rule 86F of the Cooperative Societies Rules, 1961. The Division Bench of this court in the case of Sundeep Polymers Pvt. Ltd (supra) and Ambadas Vinayak Pisolkar (supra) took a view that violation of rule 86F is bad in law. Every judgment and order of the authorities should be reasoned. The impugned orders are apparently missing the reasonings for the conclusions. Conclusion is always to be arrived at after considering the facts and recording the reasons for either to accept or reject the contention of the parties. The judgment should also quote the provision of the law, considered for conclusion. He has to evaluate the facts and express his opinion based on the facts, so one can understand what exactly the basis for the decision is. It is not done by the authority. Hence, both petitions deserves to be

allowed.

9. Both the petitions are allowed.

10. Impugned order dated 31-05-2019 is quashed and set aside and both matters are remitted to the Deputy Registrar, Cooperative Societies, Jalna for a fresh decision by granting hearing to both sides with a direction to pass the orders strictly in compliance Rule 85F of the Cooperative Societies Act, 1961 within a month from the date of appearance of the parties.

11. Both parties should appear before the learned Deputy Registrar, Cooperative Societies, Jalna on 18-03-2024 at 10.30 am.

[S. G. MEHARE, J.]