



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

10 WRIT PETITION NO. 3397 OF 2024

ASHOK KERBA GHAYAL

VERSUS

THE CHIEF EXECUTIVE OFFICER AND OTHERS

...

Mr. S. R. Kedar, Advocate for the Petitioner

Mr. S. R. Shirsath, Advocate for Respondent No.1.

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 2nd September, 2024

ORDER:

1. After the hearing in this matter proceed to a considerable extent, we noticed that the Petitioner has shrewdly suppressed from the Court that there were proceedings under Section 101 of the Maharashtra Co-operative Societies Act initiated by the Society, from which the Petitioner had taken three loans for amounts of Rs. 1,18,579/-, Rs.2,78,972/- and Rs.3,57,488/-. In Section 101 proceedings, he gave an undertaking to the Society/Special Recovery Officer that the dues may be deducted from his service dues.

2. This is disclosed before us by the employer in paragraph No.8 of the Affidavit dated 27th August, 2024. Section 101 proceedings under the Maharashtra Co-operative Societies Act were initiated by Jankalyan Urban Co-operative Bank Ltd., Kalam, Branch Ambajogai and Shikshan Sahakari Patsanstha Maryadit, Kaij. In the said Section 101

proceedings, the Petitioner gave a consent stating that he has retired from service and the loan dues can be recovered from his pensionary benefits. Such statement was recorded in the order dated 31.12.2018 and 09.11.2020, passed by the Assistant Registrar, Co-operative Societies, Kaij and Ambajogai.

3. It is further pointed out that the Petitioner himself was the Headmaster. He was under a legal obligation to deduct the installments payable to the Societies, on monthly basis, from his monthly salary. He prepared his salary bills in such a way, that not a single installment was deducted from his salary and he earned the full salary. The learned Advocate for the Petitioner submits that the Petitioner has not stated the factum about the proceedings under Section 101. Nevertheless, with the adjustment made by the employer and with whatever amounts that are repaid by the Petitioner, excess amounts has been recovered.

4. In view of the above and considering the law laid down by the Hon'ble Supreme Court in **Kishore Samrite v/s State of Uttar Pradesh, (2013) 2 SCC 398** and **Bhaskar Laxman Jadhav and others vs. Karamveer Kakasaheb Wagh Education Society, AIR 2013 SC 523**, this Petition need not be entertained on account of suppression of facts.

5. So also, the Petitioner categorically submits that there is no reason to add the cooperative societies as respondents in this matter. On

this count also, the Petition need not be entertained for non joinder of parties.

6. In view of the above, **this Writ Petition is dismissed.**

7. Needless to state, we leave the option open to the Petitioner to seek reconciliation of the accounts, in the light of the statement that the repaid amount by the Petitioner himself and the amounts adjusted in the light of Section 101 proceedings, are more than the amounts that were recoverable. If the Petitioner makes such a request representation to the concerned Co-operative Societies/Co-operative Bank, the authorities would consider his representation and give him the updated calculations, in the light of the above, within a period of 45 days.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan