



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

WRIT PETITION NO. 3951 OF 2023

- 1) Gangakhed Taluka Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit, Gangakhed Taluka Gangakhed.
Through its Chairman
Bhagwan Dnyanoba Sanap
- 2) Gangakhed Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit, Gangakhed Taluka Gangakhed.
Through its Chairman Arjun Narayanrao Phad.
- 3) Jijaju Mahila Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit, Tandalwadi, Taluka Gangakhed.
Through its Chairman Sau. Prabhawati Ananta Tandale
- 4) Savitribai Phule Mahila Shetkari Dhanya Adhikos Seva Sahkari Sanstha Maryadit, Waghdari, Taluka Gangakhed.
Through its Chairman Sau. Sharda Deepk Munde
- 5) Ganeshpuri Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit, Kodri Taluka Gangakhed, Dist. Parbhani
Through its Chairman Deepak Tukaram Latpate
- 6) Dongargaon Shetkari Samuh Krishi Sahitya Purvatha va Dhanya Godam Seva Sahkari Sanstha Dongargaon Taluka Gangakhed, Dist. Parbhani Through its Chairman Namdev Pandurang Sodgir.
- 7) Sainath Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit, Borda Taluka Gangakhed, Dist. Parbhani
Through its Chairman Dilip Venkyatrao Latpate.
- 8) Balumama Vasti Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Pokharni Valke Taluka Gangakhed, Dist. Parbhani Through its Chairman Vitthal Haribhau Devkate
- 9) Tandulwadi Vasti Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Tandulwadi Taluka Gangakhed, Dist. Parbhani Through its Chairman Nivrutti Maruti Murkute.

- 10) Kodri Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Maryadit Kodri Taluka Gangakhed, Dist. Parbhani Through its Chairman Niluba Bhanudas Mundhe.
- 11) Vasantrao Naik Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Godavari Tanda Taluka Gangakhed, Dist. Parbhani, Through its Chairman Satnarayan Baburao Ade.
- 12) Kadyachiwadi Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Maryadit Kadyachiwadi Taluka Gangakhed, Dist. Parbhani. Through its Chairman Mahadev Limbaji Phad.
13. Sai Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Pimpaldari Taluka Gangakhed, Dist. Parbhani. Through its Chairman Vasant Ramrao Mundhe
14. Badwani Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Badwani Taluka Gangakhed, Dist. Parbhani. Through its Chairman Madhav Datrao Mundhe
15. Hanumant Vasti Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Waghdari Taluka Gangakhed, Dist. Parbhani Through its Chairman Anant Vithal Mundhe
16. Yashashri Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Pisewadi Taluka Gangakhed, Dist. Parbhani. Through its Chairman Maroti Vithal Murkute
17. Venkyatesh Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Ukali Taluka Gangakhed, Dist. Parbhani. Through its Chairman
18. Sai Prabhu Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Katkarwadi Taluka Gangakhed, Dist. Parbhani. Through its Chairman Kiranshor Prabhu Katkade
19. Swami Samarth Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Kodri Taluka Gangakhed, Dist. Parbhani. Through its Chairman Vasant Bhanudas Mundhe.
20. Omkesh Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Tandalwadi Taluka Gangakhed, Dist. Parbhani.

Through its Chairman Satyabhama Ramrao Tandale

21. Sai Shyam Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Badwani Taluka Gangakhed, Dist. Parbhani. Through its Chairman Balaji Subhash Mundhe
22. Antarveli Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Antarveli Taluka Gangakhed, Dist. Parbhani, Through its Chairman Padmakar Balaji Mundhe
23. Sant Balumama Shetkari Dhanya Adhikosh Seva Sahakari Sanstha Maryadit, Anandnagar, Tq. Gangakhed, Dist. Parbhani, through its Chairman Vijnath Narhari Mundhe.
24. Pimpaldari Shetkari Samuha Krishi Sahitya Purvatha Va Chanya Godam Seva Sahkari Sanstha Maryadit Pimpaldari, Taluka Gangakhed, Dist. Parbhani Through its Chairman Gopinath Santuba Mundhe
25. Waghdari Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Maryadit Waghdari Taluka Gangakhed, Dist. Parbhani Through its Chairman Deepak Rajkumar Mundhe.
26. Sant Janabai Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Maryadit Gangakhed Taluka Gangakhed, Dist. Parbhani Through its Chairman Yashashri Bhagwan Sanap
27. Sant Bhagwan Baba Shetkari Samuha Krishi Sahitya Purvatha Va Dhanya Godam Seva Sahkari Sanstha Maryadit Waghdewadi Taluka Gangakhed, Dist. Parbhani Through its Chairman Keshav Prabhakar Nagargoje.
28. Shiv Parvati Mahila Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Waghdari Taluka Gangakhed, Dist. Parbhani. Through its Chairman Jyoti Deepak Mundhe
29. Jay Bhadra Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Taluka Gangakhed, Dist. Parbhani. Through its Chairman Govind Ramprabhu Pawar.
30. Gajramai Mahila Shetkari Dhanya Adhikosh Seva Sahkari Sanstha Maryadit Pimpaldari Taluka Gangakhed, Dist. Parbhani. Through its Chairman Mandodari Achyutrao

Mundhe.

31. Kranti Shetkari Samuha Krishi Sahitya Purvatha Va
Dhanya Godam Seva Sahkari Sanstha Maryadit Pokharni (Va)
Taluka Gangakhed, Dist. Parbhani Through its Chairman
Balu Vithal Deokate
32. Pisewadi Shetkari Samuha Krishi Sahitya Purvatha Va
Dhanya Godam Seva Sahkari Sanstha Maryadit Pisewadi
Taluka Gangakhed, Dist. Parbhani Through its Chairman
Laxman Maroti Murkute
33. Anandwadi Shetkari Samuha Krishi Sahitya Purvatha Va
Dhanya Godam Seva Sahkari Sanstha Maryadit
Anandwadi Taluka Gangakhed, Dist. Parbhani
Through its Chairman Vithal Sambhaji Sathe
34. Shelmoha Shetkari Samuha Krishi Sahitya Purvatha Va
Dhanya Godam Seva Sahkari Sanstha Maryadit Shelmoha
Taluka Gangakhed, Dist. Parbhani Through its Chairman
Prakash Laxman Mundhe.
35. Banpimpla Shetkari Samuha Krishi Sahitya Purvatha Va
Dhanya Godam Seva Sahkari Sanstha Maryadit Banpimpla
Taluka Gangakhed, Dist. Parbhani
Through its Chairman Govind Uttamrao Gutte.
36. Mahatma Phule Shetkari Dhanya Adhikosh Seva Sahkari
Sanstha Maryadit Pokharni Valke Tanda Taluka
Gangakhed, Dist. Parbhani, Through its Chairman
Uttam Govindrao Ade
37. Waghdera Shetkari Dhanya Adhikosh Seva Sahkari
Sanstha Maryadit Waghdera Taluka Gangakhed, Dist.
Parbhani, Through its Chairman Santosh Uttamrao Sanap
38. Mauli Shetkari Dhanya Adhikosh Seva Sahkari Sanstha
Maryadit Waghdari Taluka Gangakhed, Dist. Parbhani.
Through its Chairman Sumit Tukaram Sanap
39. Venkyatesh Shetkari Dhanya Adhikosh Seva Sahkari Sanstha
Maryadit Deokatwadi Tanda Taluka Gangakhed,

Dist. Parbhani. Through its Chairman Ravi Shankar Pawar

40. Shakuntala Shetkari Dhanya Adhikosh Seva Sahkari Sanstha
Maryadit Shirsam Taluka Gangakhed, Dist. Parbhani.
Through its Chairman Sambhaji Antram Murkute

..PETITIONERS

VERSUS

1. The State of Maharashtra Through its Principal Secretary,
Cooperation, Textiles and Marketing Department Government
of Maharashtra, Mantalaya, Mumbai.
2. The Commissioner for Cooperation and Registrar,
Cooperative Societies Maharashtra State Pune,
New Central Building, BJ Road, Pune.
3. Divisional Joint Registrar, Cooperative Societies,
Aurangabad Anjuman Banglow, Adalat road, Kranti Chowk,
Aurangabad.
4. The District Dy. Registrar,
Cooperative Societies, Parbhani, Station Road,
Near Shivaji Statute Parbhani, Tq. & Dist. Parbhani.
5. The Assistant Registrar, Cooperative Societies,
Gangakhed, Tq. Gangakhed, Dist. Parbhani.
6. The Assistant Registrar, Cooperative Societies,
Purna, Tq.Purna, Dist. Parbhani.
7. The Assistant Registrar, Cooperative Societies,
Selu Tq. Selu, Dist. Parbhani.
8. The State Cooperative Election Authority Maharashtra,
Pune Through its Secretary, Old Central Administrative
Building, 5 BJ Road Pune.
9. The District Cooperative Election Officer and District
Deputy Registrar, Cooperative Societies, Parbhani Near
Chhatrapati Maharaj Statue Station Road, Parbhani.

... RESPONDENTS

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Advocate for Petitioners : Mr. S.B. Ghatol Patil
A.G.P for Respondent nos. 1 to 7 : Mrs. P.J. Bharad
Advocate for Respondent nos. 8 & 9 : Mr. S.K. Kadam

CORAM

**: MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

RESERVED ON : 19.09.2024
PRONOUNCED ON : 25.09.2024

ORDER : (MANGESH S. PATIL, J.)

We have heard both the sides finally at the stage of admission.

2. The petitioners are societies duly registered under the Maharashtra Co-operative Societies Act, 1960 (Act of 1960) with a classification as 'Resource Societies' and sub classification as 'Service Societies', under Section 12(1) of the Act and Rule 10(8)(c) of the Maharashtra Co-operative Societies Rules, 1961 (Rules of 1961).

3. Respondent no. 2-the Commissioner of Co-operation, pursuant to the suggestions of a committee constituted by him for discussing criteria for registration of societies as 'Dhanya Adhikosh Societies', issued a general circular/order dated 08.04.2022, *inter alia* observing that 'Dhanya Adhikosh Societies' do not have any object of providing loan to its members and the only object of these societies is to provide services to its members and therefore classifying them as 'Resource Societies' and further sub classifying them as 'Credit Resource Societies' was contrary to the Rules of 1961. It also directed not to use word 'Adhikosh' in the nomenclature of the societies in the light of Section 7 of the Banking Regulation Act. It directed necessary corrections to be made in the classification and nomenclature and to categorize them as 'general societies' with sub classification as 'other general societies'. It also directed amendments to be carried in the bye laws.

4. Pursuant to such general directions, the Divisional Joint Registrar of Co-operative Societies instructed respondent no.3-District Deputy Registrars of the Co-operative Societies, of Aurangabad, Jalna, Parbhani and Hingoli, to implement the directions contained in the order/circular dated 08.04.2022. Accordingly respondent nos. 5 to 7-Assistant Registrars Co-operative Societies, by issuing notices under Section 14 (1) of the Act of 1960 and

Rule 13(1) of Rules of 1961 dated 04.11.2022, sought to implement these directions. Hence this petition.

5. It is to be noted that, faced with a similar fait some of the societies had resorted to the appropriate *quasi* judicial remedy by preferring appeal to the State Government and the Hon'ble Minister dismissed the appeals of those societies, who challenged the decision in **Writ Petition no. 11921/2022 (Mauli Sai Samarth Dhanya Adhikosh Seva Sahakari Sanstha Maryadit, Shahapur, Tq. & Dist. Parbhani Vs. State of Maharashtra and others**, and connected matters. The learned single judge, by a common judgment and order dated 08.03.2023, for the elaborate reasons discussed therein, allowed the petitions partly, *inter alia* holding that any such change in the classification and sub classification and even amendment to the bye laws could be resorted to by extending suitable opportunity to each of those societies and the decisions cannot be lopsided. The relevant observations can be found in paragraph no. 34 onwards, which read as under:

“34] The formation of a society for a particular purpose is a right of each member of the society and covered within the scope under Article 19 (1) (c) of the Constitution of India and there can be no direction to change the nature or purpose of the association.

35] In the instant case after unilateral re-classification of the petitioner - societies under Section 12 [2] of the MCS Act, 1960, subsequent action under Section 14 of the MCS Act, 1960 for adoption of model bye-laws is initiated. The unilateral re-classification of the societies under Section 12 of the MCS Act, 1961 which I have held to be bad in law, forms basis for action for adoption of model bye-laws under Section 14 of the MCS Act, 1960 is, thus, also bad in law.

36] In view of the same, the order dated 08.04.2022 issued by the Commissioner for Co-operation, directing re- classification of the petitioners, 'Dhanya Adhikosh societies' to the 'General society' is bad in law. Further direction to change the bye laws based on the re-classification of society would also be not applicable to the petitioners societies.

37] *The Authorities constituted under the MCS Act are at liberty to issue notice to the individual Dhanya Adhikosh Societies for re-classification of society under Section 12 of the MCS Act, 1960 and only on being satisfied that, the society is wrongly classified, based upon its principal object, bye-laws and functions undertaken by the society, may re-classify the individual society.*

38] *When the society has multiple objects, the Registrar, should ascertain the principal object of the society for classification and sub-classification of the society. The Registrar may ascertain the principal object on the basis of bye-laws of the society and the functions undertaken by the society. There can be no direction to change the object of the 'Dhanya Adhikosh Society' as it would violate Article 19 (1) (c) of the Constitution of India of the members forming the society. In the event the society does not function as per its object and / or its bye-laws, steps can be taken to de- register the society but there can be no direction to change the object of the society unless the society voluntaries to change its object and bye-law of the society.*

39] *As regards violation of Section 7 of the Bombay Banking Regulation Act is concerned, prima facie translation of the word 'Adhikosh', in english would be 'storage' or a 'bank'. The petitioner societies names are mentioned as 'Dhanya Adhikosh Societies' which would mean 'food/grains storage' societies. Since I am quashing the entire action initiated by the Commissioner of Co- operation qua the petitioners, by its general order dated 08.04.2022, I am not expressing final opinion on the usage of word "Adhikosh" by the petitioner-societies. Liberty is granted to the appropriate authority to issue fresh notice to the petitioners / societies for change of use of the word 'Adhikosh' in their name / title and after considering the reply of the petitioners / societies, final orders can be passed, subject to the right of the petitioners to challenge the same as may be available in law."*

We are in complete agreement with the reasoning resorted to by the learned esteemed single judge.

6. For the self same reasons the writ petition is partly allowed.
7. The instructions/order dated 08.04.2022 (**Exh. I**), issued by

respondent no. 2-Commissioner of Cooperation and Registrar Co-operative Societies and the consequential letters issued by respondent nos. 5 to 7 the Assistant Registrars of Cooperative Societies of Gangakhed, Purna and Selu, District Parbhani, are quashed and set aside. They shall be at liberty to issue specific notices to each of these petitioners for reclassification under Section 12 of the Act 1960, and it is only after they arrive at a conclusion of their classification being incorrect, based upon the principal object, by-laws and functions being undertaken by them, may reclassify individual society.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)

mkd/-