



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

WRIT PETITION NO.6193 OF 2024

Chaitanya Kukutpalan Sahkari Santha Ltd Through It's
Chairman

VERSUS

The Divisional Deputy Registrar Co Operative Societies
And Others.

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Advocate for the Petitioner : Mr. Suryawanshi K J.

AGP for Respondents: Mr. S N Kendre

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : June 26, 2024

PER COURT :-

1. Heard Mr. Suryawanshi, learned advocate appearing for the petitioner and learned AGP for respondents. By consent of parties, matter is taken up for final disposal.

2. Mr. Suryawanshi invites attention of this court to the provisions of section 102 of the Maharashtra Co-operative Societies Act (for short MCS Act), particularly, clause (c) and contends that the petitioner Society was never served upon show cause notice thereby calling explanation upon service of interim order. He would further invite attention of this Court to clause no.4 of the order passed by the appellate authority wherein there are specific observations that the Assistant Registrar could not place on record any material regarding service of interim order and calling

explanation from the petitioner society in consonance with sub-clause (c) of Section 102 of the MCS Act.

3. In support of his contentions, Mr. Suryawanshi relies upon the judgment of this Court in case of **Chandrapur Zilla Sahakari Krushi and Gramin Bahuddeshiya Development Bank Ltd., Vs. State of Maharashtra and others** reported in 2004 (1) Mh.L.J. 232 to contend that principles of natural justice cannot be dispensed with and the Registrar is duty bound to grant hearing to the concerned Society before taking action under section 102 of the MCS Act.

4. Learned AGP, on specific query by the Court, could not point out any material indicating that the petitioner society was served with the interim order or any show cause notice given before taking final action based on such interim order.

5. In that view of the matter, considering mandatory provisions in the clause of section 102 of the Act, the final order passed by the Assistant Registrar Cooperative Societies cannot be sustained. However, the impugned order passed by the appellate authority is passed ignoring aforesaid aspects. In that view of the matter, impugned order passed in appeal cannot be sustained and matter needs to be relegated back to the appellate authority for re-consideration. Hence, the following order :-

ORDER

- i. Writ Petition is partly allowed.
- ii. The impugned order dated 29.05.2024 passed by the Divisional Deputy Registrar Co-operative Societies (Dairy), Chhatrapati Sambhajinagar-Respondent No.1 in Appeal no.1 of 2024 is hereby quashed and set aside.
- iii. The matter is remitted back for re-consideration.
- iv. Petitioner shall appear before the Appellate Authority on 29th July, 2024 and submit relevant documents in support of the contentions.
- v. The Divisional Deputy Registrar-Respondent No.1 shall pass a fresh order in appeal after hearing all the concerned within a period of eight (8) weeks thereafter and shall communicate the decision to the respective parties.
- vi. Writ Petition stands disposed off. No costs.

(S. G. CHAPALGAONKAR, J.)

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aaa/-