



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9700 OF 2023

M/s. Dwarka Industries

VERSUS

Sangamner Sahakari Audyogik Vasahat Sangamner and Ors.

Mr.Prakash B. Shirsath Advocate for Petitioner.

Mr.S. T. Shelke Advocate for Respondent No. 1(A) to 1(B).

Mr. S. M. Ganachari AGP Respondent Nos.2 and 3.

CORAM : KISHORE C. SANT, J.

RESERVED ON : 16th OCTOBER 2024

PRONOUNCED ON: 10th DECEMBER 2024

PC :-

1. Heard the learned Counsel for the parties.
2. This petition arises out of the Judgment and Order dated 23rd June 2023 passed by the Respondent No.3 – Additional Registrar (Credit Societies), Co-operative Societies, Pune, in Revision Application No.01 of 2023 thereby allowing the Revision Application of the Respondent No.1 – Sangamner Sahakari Audyogik Vasahat, Sangamner (“Society” for short). Respondent No.2 is the Deputy Registrar, Co-operative Societies,

Sangamner, who had allowed the application of the petitioner, which came to be set aside by Respondent No.3.

3. The facts, in short, giving rise to the Petition are as under:-

That Respondent No.1 is the Industrial Estate registered under the Maharashtra Co-operative Societies Act. The petitioner happens to be a member of the said estate. The petitioner had filed an application on 15th April 2017 to the Society and prayed that one Smt. Pushpa Kashinath Dongare be included as partner in his proprietary firm. The said application was replied by the Society by rejecting the application for including as a partner in the firm of the petitioner. The petitioner, therefore, challenged this rejection by filing appeal before the Deputy Registrar. The learned Deputy Registrar held that the Manager has no right to take any decision in view of bye laws of the Society. The main ground in the appeal before the Deputy Registrar was that, the application for inclusion as a partner was made on 15th April 2017 and the same came to be rejected by communication dated 4th May 2018. As the said rejection is after 90 days, it could not have been rejected. The

Society was required to take decision within 90 days from the date of receipt of the application and to communicate the same. If no such decision is taken and communicated within 90 days, it is deemed to be allowed. The Deputy Registrar accepted this argument and allowed the appeal directing the Society to take Smt.Pushpa Dongare as a partner in the petitioner firm.

4. The Society challenged this decision by filing revision mainly on the ground that Section 22 of the has no application in the present case. Section 22 provision is for the membership of the society and does not make induction of any person as a partner in a membership firm of member body. In view of bye laws No.52.24(A)(2), it is for the Board of Directors of the Industrial Estate to take decision on this aspect. In view of the bye laws, the member firm or any other entity has to take prior permission of the estate before inducting the partner. Smt. Pushpa Dongare happens to be the wife of former Manager of the Society Mr.Kashinath Dongare. She was already given plot No.73-A. However, she sold the said plot. She transferred the said plot in the name of one

Mr. Walve and now, she is again requesting for becoming partner in a member firm on the said plot. The transfer of the plot was done for profit motive and the same is not permissible. There is specific resolution dated 23rd April 2018 refusing application by the firm. Similar resolution is passed in meeting dated 3rd May 2018 even in General Body Meeting dated 28th September 2018. The application came to be rejected.

5. The Revisional Authority accepted the case of the respondent No.1. It is concluded that the Society has given the plot to one Mr. Walve by lease deed dated 11th August 2016. It is thereafter on 15th April 2017, Smt. Pushpa Dongare had made an application to become a member of the firm. It is considered that deemed membership is only in case where all other requirements are complete such as payment of membership fees, payment of share certificate towards share, admission fees etc. It was necessary to verify all these things and only thereafter she could have been accepted as member after verification process. In this case, there is no question of membership and thus by holding revision came to

be allowed. The petitioner has thus filed this writ petition.

6. It is vehemently argued by the learned Advocate for the petitioner that the petitioner is a member of the estate and there is no dispute that the petitioner was ready to pay the requisite fees. Smt. Pushpa Dongare has given in writing that she is ready to pay all the requisite fees on admission. The learned Registrar has wrongly decided the revision. In fact, it was only an intimation given to the society. Ultimately, it is prayed for remand of the matter for fresh decision.

7. The learned Advocate Mr. Shelke appearing for Respondent vehemently opposes the petition. He submits that the petitioner was taken as a member of the estate/society as a proprietary firm. Now, by way of accepting a partner, the petitioner wants to convert the said firm to a partnership firm. The Board of Directors considered all these aspects. There is specific resolution passed unanimously on 17th April 2017. It was found that the member, who was to be inducted, is wife of former Manager of the Society. He is trying to harass the estate in various ways etc.

8. Learned AGP supports the order passed by the Revisional authorities and prays for rejection.

9. This Court finds that from the facts what is seen is that on 15th April 2017, the application was filed seeking permission to induct Smt.Pushpa Dongare as partner in the sole proprietary firm. Assuming that the application was not for the membership of the society and as such, Section 22 is not applicable, naturally, there is no question of any deemed membership in view of Section 22. As rightly discussed by the Revisional Authority that Section 22(2) provides that such deemed membership is only subject to compliance of other conditions in view of Section 22(1).

10. Assuming that deemed membership still resolution dated 17th April 2017 shows that the application was immediately rejected. This decision was taken immediately in the next meeting. Even on that count, the membership cannot be considered to be deemed membership. Even from taking the application of the petitioner as it is, it is clearly seen that the application was seeking permission to induct Smt. Pushpa Kashinath

Dongare as a partner in the proprietary firm. Certainly, this cannot be said to be an application for membership. Respondent No.3 rightly considered all these aspects. No case is made out calling for interference at the hands of this Court while exercising jurisdiction under Article 227 of the Constitution of India.

11. For the reasons discussed above, writ petition stands dismissed. No order as to costs.

12. Civil Applications, if any, also stand disposed off.

[KISHORE C. SANT, J.]

Ethape