

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2977 OF 2024

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Jaykumar Ballappa Munnoli & Anr. ... Petitioners

V/s.

Divisional Deputy Registrar Cooperative
Societies (Dairy) & Ors. ... Respondents

Mr. Ruturaj Pawar for the petitioners.

Mr. S. D. Rayrikar, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : MARCH 4, 2024

P.C.:

1. The petitioners are the Chairman and Secretary of the Cooperative Society registered as Milk Society.
2. The petitioner No.2 has been removed by managing committee as Secretary. The approval granted to such removal and appointment of new Secretary is subject matter of challenge in Writ Petition No.2976 of 2024.
3. In the meantime, the Registrar in exercise of power under section 80 of the Maharashtra Cooperative Societies Act, 1960 has directed the petitioner No.2 to hand over record of the society to the newly appointed Secretary.
4. According to petitioner No.2, such record was handed over to the Auditor for conducting audit under section 81 of the Maharashtra Cooperative Societies Act, 1960.

5. The challenge in this writ petition is to the order passed by the Assistant Registrar under section 80 of the Maharashtra Cooperative Societies Act, 1960. Under section 80 of the said Act, the Registrar is conferred with power to seize the record. The scope of inquiry under section 80 of the Maharashtra Cooperative Societies Act, 1960 is suppression, tampering or destroying, or utilizing funds of the society for the purposes other than objects of the society. The Registrar on being satisfied about existence of the factors under Sub-section (1) of section 80 of the Maharashtra Cooperative Societies Act, 1960, is empowered to pass such order against the Secretary for handing over records of the society. In the facts of the case, it is not in dispute that managing committee has removed petitioner No.2 as Secretary. Therefore, the exercise of power under section 80(1) of the said Act cannot be faulted.

6. However, according to the petitioner, he is not in possession of the record as he has already handed it over to the Auditor for the purpose of conducting audit. This fact needs to be ascertained by the Officer appointed by the Registrar for seizure of the record of the society. Such factor is not relevant for adjudicating legality and validity of order under section 80 of the Maharashtra Cooperative Societies Act, 1960. Hence, the exercise of power under section 80 of the Maharashtra Cooperative Societies Act, 1960 cannot be faulted.

7. The writ petition is, therefore, dismissed. No costs.

(AMIT BORKAR, J.)