

SA Pathan

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

WRIT PETITION NO.13581 OF 2022

Kanifnath Cooperative Fishery Society
Ltd. Through Chairman/Secretary
Yuvraj A Avadhuth

... Petitioner

V/s.

State of Maharashtra Through
Principal Secretary, Ministry of Fishery &
Port and Trust & Ors

... Respondents

Mr. N. V. Bandiwadekar, Sr. Advocate i/by Mr. Sujeet
Bagade, for Petitioner.

Mr. Ranjit D. Shinde a/w Mr. Mahesh Sonawane &
Mr. Ranjit Shinde, for Respondent Nos. 5 to 7 & 9.

Mrs. V. S. Nimbhalkar, AGP for State/Respondent.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 30, 2024

P.C.:

1. The petitioner (Co-operative society) is challenging order passed by the State Government confirming the order of Deputy Registrar, Co-operative Societies setting aside action of expulsion on the ground that there is non-compliance of Rules 28 and 29 along with Section 35 of the Maharashtra Cooperative Societies Act, 1960. On perusal of the record, it appears that the Annual General Meeting for expulsion of 40 members was held on 28

September 2020. Notice of such meeting was issued on 2 September 2020. Therefore, it appears that prior notice of less than 90 days was issued before conducting the Annual General Meeting for expulsion of members.

2. Moreover, the expelled members were not granted opportunity as required under the provisions of Section 35 of the Maharashtra Cooperative Societies Act, 1960 read with Rule 28 of the Maharashtra Cooperative Societies Rules, 1961. Hence, the District Deputy Registrar recorded a finding that mandatory period of 30 days before taking action under Section 35 of the Maharashtra Cooperative Societies Act, 1960 has not been complied with. The issue as to whether 30 days prior notice is mandatory or not, is no longer *res integra*, in view of division bench judgment of this Court in the case of **Kolhapur Zilla Sahakari Doodha Utpadak Sangh Maryadit, Kolhapur Vs. State of Maharashtra & Others**, reported in (2008) 2 Mah LJ 231 wherein it is held that notice of clear 30 days is mandatory. Hence, the impugned order passed by the State Government confirming order of Deputy Registrar holding expulsion as illegal needs to be confirmed.

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

4. It is clarified that, dismissal of the writ petition shall not preclude the society from taking action of expulsion against the members if permissible in law.

(AMIT BORKAR, J.)