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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16062 OF 2023**

Shri Gorakh Rangnath Bodare	... Petitioner
vs.	
The Joint Registrar Co-operative Societies Dairy	... Respondent

Mr. Vishal Mohan Dhamal, for Petitioner.

Mr. Manish Kelkar, for Respondent No.4.

Mr. M.S. Bane, AGP for the State.

CORAM : GAURI GODSE, J.

DATED : 8th MARCH, 2024

P.C. :-

1. Heard. Considering the grievance made in the petition on behalf of the petitioner, the petition is taken up for final disposal.

2. This petition takes an exception to the order dated 5th December 2023, passed by respondent no.1, allowing Revision Application No. 4 of 2023, filed by respondent no.4. The Revision Application was filed before the Divisional Joint Registrar, Cooperative Societies(Dairy) by the respondent no.4 for challenging order dated 16th June 2023, passed by the Divisional Deputy

Registrar, Cooperative Societies(Dairy), allowing petitioner's Appeal filed under section 152 of the Maharashtra Cooperative Societies Act ('**MCS' Act**). The said Appeal was filed by the petitioner for challenging order dated 24th March 2023, passed by the Assistant Registrar, Co-operative Societies(Dairy) under section 73CA of the MCS Act, disqualifying the petitioner as member of Khandoba Ground Reservoir Fishery Business Co-operative Society, Nimbodi. The said order of disqualification was passed pursuant to the Show Cause Notice dated 10th March 2023, passed by the Assistant Registrar, Cooperative Societies(Dairy), Satara.

3. Learned counsel for the petitioner submits that he was never served with the said Show Cause Notice and hence was unable to respond to the said Show Cause Notice. Considering the main grievance amongst other grounds raised on behalf of the petitioner, I have perused the records regarding service of the Show Cause Notice upon the petitioner. Learned counsel for respondent no.4, relied upon postal remarks and placed on record the same to show that notice was issued to the petitioner as well as the society and the notices sent by post were received by the Chairman of the society. He submits that the petitioner had later on even resigned as a member.

4. Learned counsel for the petitioner disputes the aforesaid submissions. He submits that the main challenge of the petitioner to the order of disqualification was that the petitioner was never served with the Show Cause Notice.

5. I have perused the postal record. A perusal of the postal record does not indicate that the petitioner was served with the Show Cause Notice. The orders impugned in the petition are concerning the disqualification of the petitioner from membership of the aforesaid society. The order of disqualification is based on the Show Cause Notice dated 10th March 2023. In the event, Show Cause Notice itself was not served upon the petitioner obviously, he was unable to respond to the said Show Cause Notice and thus, never had an opportunity to put forth his defence to the allegations made against him in the Show Cause Notice.

6. Perusal of the impugned order passed by the Joint Registrar, Cooperative Societies(Dairy) indicate that the order passed in favour of the petitioner in the Appeal preferred by him under section 152 of the MCS Act was filed before the authority i.e. Divisional Deputy Registrar, Co-operative Societies(Dairy), who did not have jurisdiction and that the Divisional Deputy Registrar, Cooperative Societies(Fisheries) was the correct authority before whom the

Appeal should have been filed.

7. In view of the grievance made on behalf of the petitioner regarding non-service of Show Cause Notice, I do not find it necessary to examine the jurisdictional issue raised in the impugned order. Since, the disqualification of the petitioner is based on the Show Cause Notice which was not served upon the petitioner, it is in the interest of justice that the petitioner be given an opportunity to respond to the Show Cause Notice and the Show Cause Notice is decided afresh, after giving an opportunity to the petitioner of being heard.

8. Thus, without examining the other points raised in the petition as well as in the reply filed on behalf of respondent no. 4, the petition deserves to be allowed on the point of non-service of Show Cause Notice and an opportunity of being heard to petitioner. Hence, for the reasons stated above, petition is partly allowed by passing following order:

I) The impugned order dated 5th December 2023, passed by respondent no.1 in Revision Application No. 4 of 2023, is quashed and set aside.

II) The order dated dated 16th June 2023, passed by the Divisional Deputy Registrar, Cooperative Societies(Dairy), Pune

division in Appeal No. 4 of 2023 is quashed and set aside.

III) Order dated 24th March 2023, passed by the Assistant Registrar, Cooperative Societies(Dairy), Satara in the proceedings pursuant to the Show Cause Notice dated 10th March 2023, is quashed and set aside.

IV) Proceedings initiated pursuant to Show Cause Notice dated 10th March 2023, is restored to the file of Assistant Registrar, Cooperative Societies(Dairy), Satara for deciding it afresh after giving an opportunity to petitioner of being heard.

V) Petitioner is at liberty to file reply to the Show Cause Notice dated 10th March 2023, within a period of four weeks from today. Respondent No.4 is at liberty to respond to the reply filed by the petitioner.

VI) The proceedings pursuant to the Show Cause Notice dated 10th March 2023, be decided on its own merits uninfluenced by the aforesaid orders which are quashed and set aside.

VII) Parties to appear before the Assistant Registrar, Cooperative Societies(Dairy), Satara on 5th April 2024 at 11:00 a.m. The concerned Assistant Registrar, Cooperative Societies, thereafter to fix further schedule of hearing as per his convenience.

9. Needless to record that, I have not examined the rival contentions of the parties on merits and hence all contentions of all parties are kept open.

(GAURI GODSE, J.)