



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.2183/2024

Deorao S/o Namdevrao Wankhede

...Versus...

State of Maharashtra, through its Secretary Department of Co-operation,
Marketing and Textiles, Mantralaya, Mumbai – 32 and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. S.S. Dhengale, Advocate for petitioner
Ms Prachi Joshi, Advocate for respondent nos.1 and 2
Mr. P.M. Pande, Advocate for respondent nos.3 and 4

CORAM : N.R. BORKAR, J.

DATE : 03/07/2024

1. This petition takes exception to the order dated 02/09/2020, passed by the respondent No.2-Assistant Registrar Cooperative Society, Babhulgaon.

2. The respondent Nos.3 and 4 herein had filed an application under Section 101 of the Maharashtra Co-operative Societies Act, 1960 for issuance of recovery certificate. By the order impugned, the respondent no.2 has allowed the said application.

3. Mr. Dhengale, learned counsel for the petitioner submits that no show-cause notice of the application filed by the respondent Nos.3 and 4 for issuance of recovery certificate was served upon the present petitioner.

4. It is submitted that the order-sheet of the proceedings in question maintained by respondent No.2 does not reveal that petitioner was served with show-cause notice. It is submitted that in the facts and circumstances, the order impugned be set aside and the matter be remanded back to respondent No.2.

5. On the other hand, learned Assistant Government Pleader for the respondent No.2 submits that show-cause notice was served upon the petitioner. To show that petitioner was served with show-cause notice, the learned Assistant Government Pleader has produced on record postal acknowledgment.

6. The learned Counsel for respondent Nos.2 and 3 submits that the petitioner has not disputed the signature on postal acknowledgment. If this is so, then no interference is called for in the impugned order. In the alternative, it is submitted that if this Court is inclined to remand the matter to respondent No.2 then petitioner be put to terms and he be asked to deposit certain amount.

7. I have perused the order-sheet of the proceedings in question maintained by respondent No.2. In the said order-sheet there is no reference of postal acknowledgment or service of show-cause notice upon the petitioner. Be that as it may, considering the fact that petitioner is a guarantor, I am inclined to grant him one opportunity to put forth his defence/ case before respondent No.2. Hence, the following order.

ORDER

- (i) The writ petition is partly allowed.
- (ii) The order impugned is set aside. The petitioner shall appear before the respondent no.2 on 18/07/2024.
- (iii) The respondent no.2 shall permit the petitioner to file reply, if any, to the application filed by respondent Nos.3 and 4 under Section 101 of the Maharashtra Cooperative Societies Act and then respondent No.2 shall decide it in accordance with law. The respondent No.2 shall endeavour to decide the application within a period of two months from the date of receipt of copy of this order.
- (iv) No order as to costs.

(N.R. BORKAR, J.)