



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

WRIT PETITION NO. 3369 OF 2024

WITH

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WRIT PETITION NO. 3369 OF 2024

PETITIONER : Maroti S/o. Laxmanrao Warokar, Aged
about 47 Years, Occu. Service, R/o.
Leelai Sankul, Dairy Road, Dwarka
Nagri, Akola, Tah. & Dist. Akola.

//VERSUS//

RESPONDENTS : 1. State of Maharashtra, through its
Secretary, Cooperation Department,
Mantralaya, Mumbai-32.

2. The Divisional Joint Registrar,
Cooperative Societies, Amravati, Tah.
& Dist. Amravati.

3. The District Deputy Registrar of
Cooperative Societies, Akola, Tah. &
Dist. Akola.

4. Rajnish Dhananjay Thakare, Aged
about 47 Years, Occ. Service,
Vrundavan Nagar, Akola, Tah. Akot,
Distt. Akola.

5. Akola Zilla Parishad Prathamik
Shikshak Sahakari Pat Sanstha Ltd.,
Akola, Near Maheshwari Bhawan,
Akola, Tq. & Distt. Akola.

6. Shrikant Tryambakrao Wankhade,
Aged : Major, R/o. Antri Malkapur,
Tah. Balapur, Distt. Akola.

Mr. Ram D. Karode, Advocate for the Petitioner.

Mr. Amit Madiwale, AGP for Respondent Nos.1 to 3.

Mr. A.M. Ghare, Advocate for Respondent No.6.

WITH
WRIT PETITION NO. 3370 OF 2024

PETITIONER : Shashikant Balkrushna Gaikwad, Aged
about 56 Years, Occu. Service, R/o.
Maratha Nagar, Akola, Tah. & Dist.
Akola.

//VERSUS//

RESPONDENTS : 1. State of Maharashtra, through its
Secretary, Cooperation Department,
Mantralaya, Mumbai-32.

2. The Divisional Joint Registrar,
Cooperative Societies, Amravati, Tah.
& Dist. Amravati.

3. The District Deputy Registrar of
Cooperative Societies, Akola, Tah. &
Dist. Akola.

4. Nilesh S/o. Vasantrao Kale, Aged :
Major, R/o. Akot, Tah. Akot, Distt.
Akola.

5. Akola Zilla Parishad Prathamik
Shikshak Sahakari Pat Sanstha Ltd.,
Akola, Near Maheshwari Bhawan,
Akola, Tq. & Distt. Akola.

6. Maroti Laxmanrao Warokar, Aged :
Major, R/o. Leelai Sankul, Dairy Road,
Dwarka Nagri, Akola, Distt. Akola.

Mr. Ram D. Karode, Advocate for the Petitioner.

Ms. Kalyani P. Marpakwar, AGP for Respondent Nos.1 to 3.

Mr. A.M. Ghare, Advocate for Respondent No.6.

WITH
WRIT PETITION NO. 3371 OF 2024

PETITIONER : Dnyaneshwar Manohar Tohare, Aged
about 49 Years, Occu. Service, R/o.
Athwadi Bazar, Telhara, Tah. Telhara,
District Akola.

//VERSUS//

RESPONDENTS : 1. State of Maharashtra, through its
Secretary, Cooperation Department,
Mantralaya, Mumbai-32.

2. The Divisional Joint Registrar,
Cooperative Societies, Amravati, Tah.
& Dist. Amravati.

3. The District Deputy Registrar of
Cooperative Societies, Akola, Tah. &
Dist. Akola.

4. Pramod Digambar Kalpande, Age : 52
Years, Occu. Service, R/o. Ayodhya
Nagar, Mothi Umari, Akola, Tah.
Akot, Distt. Akola.

5. Akola Zilla Parishad Prathamik
Shikshak Sahakari Pat Sanstha Ltd.,
Akola, Near Maheshwari Bhawan,
Akola, Tq. & Distt. Akola.

6. Shankar Sahebrao Tayde, Aged :
Major, R/o. Krishna Nagari, Kaul
Khed, Tah. & Dist. Akola.

Mr. Ram D. Karode, Advocate for the Petitioner.

Ms. M.R. Kavimandan, AGP for Respondent Nos.1 to 3.

Mr. A.M. Ghare, Advocate for Respondent No.6.

CORAM : G. A. SANAP, J.

DATED : 7th JUNE, 2024.

ORAL JUDGMENT

. **RULE.** Rule made returnable forthwith. Heard finally
with the consent of learned advocates for the parties.

02] Very short issue is involved in all these petitions. The
petitioners have questioned the correctness of the order dated 31st
May, 2024, passed by the Divisional Joint Registrar, Cooperative
Societies, Amravati, whereby the stay granted to the order of
disqualification of the petitioners as Directors of the respondent
No.5-Akola Zilla Parishad Prathamik Shikshak Sahakari Pat
Sanstha Ltd., Akola, came to be vacated.

03] The proceeding for disqualification of the petitioners in
Writ Petition Nos.3369/2024 and 3371/2024 was initiated on the

ground that, being the Directors of the Society, they failed to repay the loan borrowed from the Society within time. As far as the petitioner in Writ Petition No.3370/2024 is concerned, it is the basic contention that on the date of his appointment as the Director of the respondent No.5, he was the Director of another Cooperative Society by name Dr. Babasaheb Ambedkar Zilla Parishad Magasvargiya Karmchari Sahakari Pat Sanstha Maryadit Akola-Washim. Being aggrieved by the disqualification orders, the petitioners filed the appeals before the Divisional Joint Registrar, Cooperative Societies, Amravati under Section 152 of the Maharashtra Cooperative Societies Act, 1960. They moved the stay applications. The Divisional Joint Registrar, Cooperative Societies, Amravati, by his order dated 28th December, 2022, allowed the stay application and stayed the operation of the disqualification orders during the pendency of the appeals. The appeals are still pending before the Divisional Joint Registrar, Cooperative Societies, Amravati. During the pendency of the appeals, respondent No.6 made an application for vacating the stay. The basic premise for vacating the stay is the decision of the Hon'ble Apex Court and the Government Resolution dated 6th May, 2021.

04] It is submitted by learned advocate for the petitioners that the Constitution Bench of the Hon'ble Apex Court in the case of *High Court Bar Association, Allahabad Vs. State of U.P.* [AIR OnLine 2024 SC 143] has considered the decision of the Hon'ble Apex Court in Criminal Application No.1375-76/2013 and Misc. Application No.1577/2020 and has held that an interim order lawfully passed by a Court after hearing all the contesting parties is not rendered illegal only due to the long passage of time. Learned advocate submitted that, therefore, the Divisional Joint Registrar, Cooperative Societies, Amravati, was not right in vacating the stay on the ground that the life of that stay order was for six months only.

05] As far as the settled legal position is concerned, now there is hardly any dispute. The Constitution Bench of the Hon'ble Apex Court in the case of *High Court Bar Association, Allahabad (supra)* has held that an interim order lawfully passed by a Court after hearing all the contesting parties is not rendered illegal only due to the long passage of time. It is held that the order of interim stay cannot be vacated, without application of mind, only on the ground of lapse of time, when the litigant is not responsible for the delay.

06] The stay was granted in the three appeals on 28th December, 2022. The stay has been vacated on 31st May, 2024. The decision in the case of ***High Court Bar Association, Allahabad (supra)*** was rendered on 29th February, 2024. This decision was not noticed by the Divisional Joint Registrar, Cooperative Societies, Amravati. Similarly, the advocates for the parties did not bring this judgment to the notice of the Divisional Joint Registrar, Cooperative Societies, Amravati. In my view, the ground on which the stay was vacated was not available. The very premise of the prayer to vacate the stay was not in accordance with the law laid down in the case of ***High Court Bar Association, Allahabad (supra)***. The statutory appeals filed by the petitioners are pending before the Divisional Joint Registrar, Cooperative Societies, Amravati. The appeals, as can be seen from the record, are otherwise ripe for final hearing. The Divisional Joint Registrar, Cooperative Societies, Amravati, therefore, was not justified in vacating the stay order. The Divisional Joint Registrar, Cooperative Societies, Amravati, instead of vacating the stay, was expected to hear the appeals expeditiously. The stay was granted after full-fledged hearing on the stay applications made by the petitioners. In this manner, therefore, the Divisional Joint Registrar, Cooperative Societies, Amravati, was not justified in vacating the stay. This

ground, which has been stated in the order, was not the valid ground on the date of the order. Therefore, the order, vacating the stay in all these petitions, is required to be set aside. Hence, the following order:

ORDER

- i) The Petitions are **allowed**.
 - ii) The order dated 31st May, 2024, is set aside. The stay granted by respondent No.2 dated 28th December, 2022 in the appeals filed by the petitioners, shall continue till the disposal of the appeals filed by them.
 - iii) Respondent No.2 shall make an endeavour to dispose of the appeals expeditiously.
 - iv) Rule is made absolute in the above terms. No order as to costs.
- The petitions are disposed of.

(G. A. SANAP, J.)

Vijay