



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3717 OF 2022

1. Vishal Grahak Sahakari Sanstha Maryadit,
bearing Registration No.101, Gandhi Gate,
Shivaji Putala, Ganeshpeth Road, Mahal,
Tahsil & District : Nagpur, through its
Authorised Officer.
2. Nagpur District Central Co-operative
Consumers Wholesale & Retail Stores Ltd.,
bearing Registration No.146, having its
office at Sahakar Mandir, Tilak Road,
Tahsil & District : Nagpur, through its
Authorised Officer.
3. Shri Pilaji Narayan Dhapudkar,
Aged : Adult, Occ. : Nil,
R/o. Gandhi Putla, Ganeshpeth Road,
Mahal, Tahsil & District : Nagpur.
4. Shri Vijay Ramaji Kapse,
Aged – Adult, Occ. : NIL,
R/o. Sahakar Mandir, Tilak Road,
Tahsil & District – Nagpur.

.... **PETITIONERS.**

// VERSUS //

1. Government of Maharashtra,
through its Minister of State for
Co-operation, Marketing and Textiles
having its office at Hutatma Rajguru
Marg, Madam Cama Marg, Annex.
Building, Mantralaya, Mumbai-
400 032.

2. Government of Maharashtra,
through Divisional Joint Registrar
Co-operative Societies, Nagpur
Division, Nagpur.
3. District Deputy Registrar,
Co-operative Societies, having its
Office at Plot No.8, Sahakar Sadan,
Hindustan Colony, Amravati Road,
Nagpur.
4. Janta Central Wholesale and Retail
Co-operative Consumer Stores Ltd.,
through its Manager Shri Devidas
Narayan Saphale, R/o. Pandit Nehru
Marg, Opp. State Bank of India,
District : Akola – 440 001.
5. Wardha District Co-operative
Wholesale and Retail Consumer
Society, through its Manager,
Shri Manohar R. Gourshettiwar,
R/o. Near Old R.T.O. Office,
Pratapnagar, District : Wardha.
6. Shri Anant S/o. Madhukarrao Bhuihar,
Aged about 60 years, Occ. Practitioner
R/o. Old Radhakishan Plot, District :
Akola – 444 001.
7. Shri Vijay S/o. Shamrao Mule,
Aged about 70 years, Occ. Retired,
R/o. Near Old R.T.O. Office,
Pratapnagar, District : Wardha.
8. Assistant Registrar, Co-operative
Societies, Taluka Nagpur.

.... RESPONDENTS.

Shri M.V.Samarth, Sr.Advocate a/b Shri S.K.Tambde, Adv. for Petitioners.
Shri N.R.Patil, A.G.P. for Respondent Nos.1 to 3 and 8.
Shri A.M.Ghare, Advocate for Respondent Nos.4 to 7.

CORAM : ANIL S. KILOR, J.
DATE OF RESERVING THE JUDGMENT : 03 /11/2023
DATE OF PRONOUNCING THE JUDGMENT: 31/01/2024

JUDGMENT :

1. Heard.
2. **RULE.** Rule made returnable forthwith. Heard finally by consent of the parties.
3. This writ petition takes exception to the order dated 21/06/2022 passed by the Respondent No.1-Hon'ble Minister in Revision Application No.221 of 2022 and Revision Application No.222 of 2022, reversing the order passed by the Respondent No.2-Divisional Joint Registrar, Cooperative Societies, setting aside the order of deregistration of petitioner Nos.1 and 2 Cooperative Societies and order relating to liquidation of the said societies.

The brief facts of the present case are as under:

4. The petitioner Nos.1 and 2 are the Cooperative Societies registered under the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as “the Act of 1960”). The respondent No.3- District Deputy Registrar issued the order dated 30/01/2016 de-registering the petitioner Nos.1 and 2 societies, under Sections 109 and 21 of the Act of 1960.

5. The petitioner No.1, feeling aggrieved by the same, filed an appeal under Section 152 of the Act of 1960 vide Appeal No. 14 of 2020. Whereas, the petitioner No.2 filed an appeal namely Appeal No. 15 of 2020. Since there was a delay caused in filing the appeals the appeal memo was filed along with the application for condonation of delay.

6. The Divisional Joint Registrar allowed both the appeals vide common order dated 16/07/2020 thereby setting aside the order dated 30/01/2016 deregistering the petitioner Nos.1 and 2.

7. The respondent Nos.4 to 7 thereupon filed revision application raising the challenge to the correctness and validity of the order passed by the Divisional Joint Registrar.

8. At this juncture, it is necessary to point out that the respondent Nos. 4 to 7 sought to intervene in the said proceedings. However, the same was rejected on 09/01/2022.

9. This Court in Writ Petition Nos.737 of 2022 and 738 of 2022 filed by the respondent Nos. 4 to 7 challenging the order of rejection of the application for intervention, vide judgment dated 28/03/2022 granted limited opportunity to the respondent Nos. 4 to 7 to place on record the written submissions before the Authority.

10. In the meantime, against the order of liquidation the appeals filed by the petitioner Nos.1 and 2 were decided and the same was also the subject matter of challenge in Revision filed under Section 154 of the Act of 1960 along with the common order dated 07/04/2022 passed in Appeal No.14 of 2020 and Appeal No.15 of 2020.

11. The said revision filed by the respondent Nos. 4 to 7, was decided by the Hon'ble Minister, the respondent No.1 vide common order dated 21/06/2022 and thereby allowed the revision applications and set aside the order passed by the Divisional Joint Registrar, Cooperative Societies, Nagpur dated 07/04/2022, 24/01/2022 and

28/01/2022 and confirmed the order of the District Deputy Registrar dated 28/08/1971 and 04/01/1992 i.e. the orders relating to liquidation and the order dated 30/01/2016 relating to de-registration of the petitioner Nos.1 and 2 societies. Hence, this writ petition.

12. I have heard the learned counsel for the respective parties.

13. Shri Samarth, learned Senior Advocate for the petitioners submits that the impugned order passed by the Hon'ble Minister is erroneous and contrary to law. It is submitted that as the intervention application filed by the respondent Nos. 4 to 7 was rejected and even in the writ petition filed by the respondent Nos. 4 to 7 such permission to intervene in the appeals filed by the petitioner Nos. 1 and 2, was not granted but, the limited permission was granted to file written submissions, the respondent Nos.4 to 7 have no locus to file the revision application. It is submitted that the said fact has not been considered and appreciated by the respondent No.1-Hon'ble Minister. For this purpose, he has placed reliance on the judgment of the Hon'ble Supreme Court of India in the case of *N. Swain and another .vs.B.K.Mohapatra*, reported in 1970 (3) SCC 321.

14. Shri Samarth, learned Senior Advocate further argues that, the order of deregistration and also the order of liquidation were passed by the District Deputy Registrar in violation of the principles of natural justice. It is submitted that without granting any opportunity of being heard, the petitioner Nos.1 and 2-societies were deregistered. It is therefore, submitted that the respondent No.2-Divisional Joint Registrar has rightly set aside the said order of deregistration as well as the order of liquidation. It is submitted that, the Hon'ble Minister allowed the revision application on erroneous grounds. He, therefore, submits that as the order passed by the Hon'ble Minister is illegal, the same may be quashed and set aside.

15. On the other hand, Shri Ghare, learned counsel for the respondent Nos. 4 to 7 opposed the present writ petition on the ground that the present petition is not tenable as there is no mention about the authorization given by the petitioner Nos. 1 and 2 in favour of anybody including the petitioner Nos. 3 and 4 to file the present writ petition. He, therefore, submits that the petition is liable to be dismissed on the ground of tenability.

16. Shri Ghare, learned counsel for the respondent Nos. 4 to 7

further submits that the order passed by the Hon'ble Minister is just and proper and no interference is required as the Hon'ble Minister has rightly held that despite the fact that the High Court permitted the respondent Nos. 4 to 7 to file their written submissions in the appeals filed by the petitioner Nos. 1 and 2, while passing the order the Divisional Joint Registrar failed to take into consideration the grounds raised by the respondent Nos. 4 to 7 in their written submissions. He, therefore, submits that, as no error has been committed by the Hon'ble Minister, the present petition needs to be dismissed.

17. Shri Samarth, learned Senior Advocate submits that some of the members of the respondent Nos.4 and 5 societies are in close relation with the Hon'ble Minister. Therefore, the Hon'ble Minister ought to have recuse the matter. In this regard, he has placed reliance on the judgments of the Hon'ble Supreme Court of India in the cases of *Ashok Kumar Yadav ..vs.. State of Haryana*, reported in **AIR 1987 SC 454**, *Ranjit Thakur ..vs.. Union of India*, reported in **AIR 1987 SC 2386**, *State of Gujrat ..vs.. Mr. Justice R.A.Mehta (Retd)*, reported in **AIR 2013 SC 693** and *A.K. Kraipak ..vs.. Union of India*, reported in **1969(2) SCC 262**.

18. Shri Ghare, learned counsel for the respondent Nos. 4 to 7 submits that there is no evidence produced on record to show that there was any relationship with the members of the respondent Nos. 4 and 5. He, therefore, submits that, there was no question to recuse the matter by the Hon'ble Minister.

19. In light of the rival submissions of the parties, I have perused the record and the impugned order.

20. After going through the impugned order dated 21/06/2022 passed by the Hon'ble Minister, it is apparent on the face of the order that the only ground on which the order of the Divisional Joint Registrar has been set aside by the Hon'ble Minister is that the Divisional Joint Registrar has not touched, appreciated and considered the written submissions filed by the respondent Nos. 4 to 7, though it was permitted to be filed by this Court. The Hon'ble Minister has held that the Divisional Joint Registrar has not taken into consideration the order of the High Court and failed to comply the same. It is thus, evident that, the Hon'ble Minister has not gone into the merits of the matter and in a cryptic way the order of the Divisional Joint Registrar has been set aside.

21. Having held so, I do not find any reason to consider the

arguments made by the learned counsel for the petitioners as regards the biasness or the other grounds on merit.

22. The Hon'ble Minister in the given facts and circumstances, more particularly in view of the reasons recorded for setting aside the order of the Divisional Joint Registrar, as referred to herein above, ought to have remanded the matter back to the Divisional Joint Registrar to consider the appeals afresh and decide the same after taking into consideration the written submissions of the respondent Nos. 4 to 7. However, without remitting the matter back to the Divisional Joint Registrar for reconsideration, the order of the Divisional Joint Registrar came to be set aside on technical ground, which cannot be permitted in the given facts and circumstances of the case.

23. Admittedly, the matter relates to the de-registration of the petitioner Nos.1 and 2 and its liquidation. Therefore, the rights of the members are involved which cannot be denied on any count in a casual manner as the Hon'ble Minister has done.

24. As far as the objection raised to the Authorized Signatory, who signed the petition in absence of any contrary evidence, that he has no authorization, the objection is rejected.

25. Accordingly, I pass the following order :

- i) The Writ Petition is partly allowed.
- ii) The impugned order dated 21/06/2022, passed by the respondent No.1-Hon'ble Minister for Cooperation, Marketing and Textile Division in Revision Applications Nos. 221 of 2022 and 222 of 2022, is hereby quashed and set aside.
- iii) The matter is remanded back to the Divisional Joint Registrar, Cooperative Societies, Nagpur for deciding the same afresh.
- iv) The parties shall appear before the Divisional Joint Registrar, Cooperative Societies, Nagpur on 09/02/2024 at 11:00 a.m.
- v) The Divisional Joint Registrar shall decide the matter, after hearing both the parties, within four weeks from the date of appearance of the parties.

The Writ Petition is **disposed of** accordingly. No order as to costs.

(ANIL S. KILOR, J)

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