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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

922 WRIT PETITION NO. 241 OF 2025

SACHIN VIKRAM GHAYAL AND ANOTHER

....Petitioners

VERSUS

**THE STATE OF MAHARASHTRA THROUGH SECRETARY AND
OTHERS**

.....Respondents

Mr. N. B. Khandare, Advocate h/f Mr. D. J. Choudhary, Advocate
for the petitioners

Mr. K. J. Suryawanshi, Advocate for the respondent No. 4

Mr. L. H. Kawale, Advocate for the respondent Nos. 5,6, & 7

Mr. Ranjit D. Gaikwad, Advocate for the respondent No.8

Mr. K. S. Patil, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 10th JANUARY, 2025

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1. Heard the parties.

2. The order passed by the learned Commissioner (Sugar) Pune dated 12-12-2024 is under challenge. By way of impugned order the learned Commissioner rejected the application of the petitioner seeking transfer of the proceedings

pending before the respondent No.3 Regional Joint Director of Sugar, Chhatrapati Sambhajnagar to any other authority.

3. The facts in short are as under:

a] Respondent Nos.4 to 7 initiated three independent proceedings i.e. Nos. 2/2024, 3/2024 and 4/2024 before the learned Regional Joint Director of Sugar, Chhatrapati Sambhaji Nagar under Section 73-CA seeking declaration that the petitioners have incurred disqualification to be Directors of Shri. Sant Eknath Sahakari Sakhar Karkhana Eknath Nagar, Paithan. In the said application the petitioners filed an application seeking transfer of the proceedings pending before respondent No.3 to any other Registrar/Commissioner or any competent authority on the grounds mentioned in the said application to respondent No.2 i.e. Commissioner (Sugar) and Registrar Cooperative Societies. Respondent No.3 also communicated that he is also not willing to proceed with the proceedings for some reasons. Respondent No.2 however, concluded that section 3 of the Maharashtra Cooperative Societies Act does not confer any

power to transfer the proceedings from one authority to other authority and rejected those applications. The petitioners are, thus, before this court.

4. It is the case of the petitioner that section 3 though does not give power of transfer in specific words, the respondent has a power to transfer proceeding. The respondent No.2 has committed an error by rejecting the applications. It was necessary for him to decide the applications on merits. Even the respondent No. 3 himself has stated that he is not willing to proceed with the proceedings. This is one more reason to consider the application for transfer.

5. The learned advocate for the respondent Nos. 4 to 7 vehemently opposes the petition stating that the order passed by the respondent No.2 is legal one. There is nothing in section 3 to give power to respondent No. 2 to transfer the proceedings. He submits that the government of Maharashtra has passed an order on 25-11-1992 appointing the authorities to deal with the

functions and powers. The order is passed under section 3 of the Maharashtra Cooperative Societies Act. By the said order, the learned Commissioner of Sugar is appointed for whole State to exercise all powers by Registrar in respect of the Cooperative Sugar Factories. The Joint Directors of Sugar are appointed for specific regions. He submits that respondent No. 3 is appointed for region falling under Chhatrapati Sambhajinagar. The sugar factory of which the present petitioners are the directors falls under jurisdiction of Chhatrapati Sambhajinagar and it is for this reasons it is only respondent No. 3 who has the power to decide the proceedings. There is nothing in section 3 to give power of transfer.

6. The learned AGP prays for appropriate order.

7. Section 3 of the Maharashtra Cooperative Societies Act reads as under :

“The State Government may appoint a person to be the Registrar of Co-operative Societies for the State;

and may appoint one or more persons to assist such Registrar with such designations, and in such local areas or throughout the State, as it may specify in that behalf and may, by general or special order, confer on any such person or persons all or any of the powers of the Registrar under this Act. The person or persons so appointed to assist the Registrar and on whom any powers of the Registrar are conferred, shall work under the **general guidance, superintendence and control of the Registrar**. They shall be subordinate to the Registrar, and subordination of such persons amongst themselves shall be such as may be determined by the State Government. (Emphasis supplied).

8. From reading of the section it is clear that State Government may appoint a person to be the Registrar of cooperative Society for the State. The State can also appoint one or more persons to assist such Registrar with such designation

and in such local areas or throughout the State as may be specified in that behalf. The State Government also to confer by special or general order or in view of the powers of the Registrar under the Act, such persons are to assist the Registrar on whom powers of the Registrar are conferred. All such persons are to act under general guidance superintendent and control of the Registrar. By way of amendment in 1969 further wording is specifically added that such persons shall be subordinate to Registrar and such subordination amongst themselves shall be as determined by the State Government. All these wording necessarily show that it is the Registrar who has total control over or other Registrars by whatever designation they are called. He has to guide and also has the power to superintendent over the functioning of such Registrar. This would clearly shows that authority which are to assist Registrar are subject to the control and order passed by the learned Registrar. It necessarily implies that even the Registrar can transfer the proceedings from one authority to other authority. The function to be exercised by such persons are necessarily functions which the Registrar can

perform on his own as well. The allocation of the business is thus only for the purpose of the convenience and to provide the assistance to the Registrar. So far as the order dated 25-11-1992 is concerned, the government has exercised its power under Section 3 and appointed the officers to assist the Registrar for State. There is nothing in the said order restricting the power of the Registrar so far transfer of the proceeding from one authority to other authority is concerned.

9. When the Registrar is vested with the powers of superintendent and control the Registrar, it necessarily means that he has to do all such things which are required to be done for administration. The proceeding pending before the respondent No. 3 are the proceeding in the nature of adjudication. He thus has to adjudicate rival claims of the parties. Function is necessarily is a quasi judicial function. He has to follow the principle of natural justice. He has to decide the question of disqualification of the members. When the authority is vested with such powers it is necessary that the

justice is not only done but should be seen to have been done. In the present case respondent No.3 has submitted that he is not willing to proceed with the matter and under such circumstances at least, respondent No. 2 ought to have considered that such application requires consideration on merits.

10. Today this court is not called upon to adjudicate upon the merits of the transfer application as the application is rejected only under the impression that the Registrar does not have power to transfer the proceeding.

11. In view of above discussion this court holds that the respondent No. 2 has a power to transfer the proceeding from respondent No. 3 to any other authority or to himself. This court expects respondent No. 2 to take decision on the application on merits within four weeks from today. The authority to whom the matter if is transferred thereafter is expected to take decision within six weeks.

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12. The parties to appear respondent No. 2 on 24-01-2025.

13. The writ petition stands disposed off.

[KISHORE C. SANT, J.]

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