



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2918 OF 2025

Dilip Atmaram Pawar And Another

VERSUS

The State Of Maharashtra Through
The Secretary And Others

- Mr. V. D. Hon, Senior Counsel, a/w Mr. S. S. Kote i/by Mr. A. V. Hon, Advocate for the Petitioners
- Mr. N. D. Raje, AGP for the Respondents/State
- Mr. D. S. Bagul h/f Mr. L. K. Kalel, Advocate for the Respondent No. 4

CORAM : R. M. JOSHI, J

DATE : MARCH 10, 2025

PER COURT :

1. Learned Counsel for contesting Respondent has filed reply. The same is taken on record. Copy is made over to other side.

2. This Petition takes exception to the order passed by the Minister for Cooperation, Maharashtra State, Mumbai in Revision Application No. 724/2024 dated 05.02.2025 wherein interim relief came to be granted by way of stay the order passed by the Joint Registrar, Cooperative Societies dated 26.11.2024.

3. Petitioners claim themselves the members of

the Adiwasi Sahakari Sakhar Karkhana, Ltd. Petitioners alleged that there is mis management of the affairs of the said Society. It is further claimed that on 09.11.2021 a lease agreement was entered into and Dwarkadhish Sahakari Sakhar Karkhana Ltd was permitted to conduct the manufacturing activities. Petitioners approached to the Joint Register of Cooperative Societies with a grievance under Section 78A of the Maharashtra Co-operative Societies Act, 1960 (for short '**the Act**') making allegations against the President and the Members of the Managing Committee. Show cause notice was issued to the Members and on 26.11.2024 Administrative Board under the Chairmanship of the President was superseded by appointment of Administrative Committee. This order was taken exception to by Respondent No. 4 before Minister invoking provisions of Section 154 of the Act. The Minister after hearing both sides, passed interim order dated 05.02.2025. Hence, this Petition.

4. Learned Senior Counsel appearing for the Petitioners has drawn attention of the Court to the order passed by the Joint Registrar, Cooperative

Societies dated 26.11.2024 to contend that this order has been passed by invoking provisions of Section 78A of the Act. According to him, any order passed under this provision is Appealable under Section 152 of the Act and, therefore, no revision is maintainable under Section 154 thereof. It is his submission that even otherwise, Minister has committed error in passing interim order in ignorance of the relevant facts so also the reports on record. It is his submission that in any case the revision filed before the Minister is not maintainable and as such, order impugned deserves interference.

5. Learned Counsel for contesting Respondent sought to convince this Court that though order passed apparently by invoking provisions of Section 78A, it is his contention that in fact the disqualification is sought by invoking provisions of Section 73A of the Act. It is his submission that there is no Appeal provided under any order passed invoking Section 73A and as such, no fault can be found with the entertainment of the revision by the Minister. By drawing attention of the Court to the affidavit-in-

reply, it is submitted that the revision is filed within a period of a month from the order passed by the Authority concerned when period of Appeal is 60 days. It is his further submission that neither before the Minister nor even in this Petition objection is raised by Petitioners with regard to the jurisdiction of the Minister to entertain the revision under Section 154 of the Act. Without prejudice to these contentions, on instructions, he seeks leave of the Court to permit the Respondent No. 4 to file Appeal under Section 152 before competent Authority and for a limited period extension of the order passed by the Minister is sought.

6. Learned Senior Counsel appearing for the Petitioners strongly resisted for continuation of order impugned for the reason that since the order is passed without jurisdiction, the same cannot be continued for any further period.

7. There cannot be any dispute about the fact that order impugned is passed by invoking the provisions of Section 78A of the Act. This Court finds substance in the contention of learned Senior Counsel

for the Petitioner that Section 73A prescribes ground for disqualification. This provision does not contemplate actual disqualification which can only be done by invoking provisions of Section 78A of the Act. The order dated 28.11.2024, therefore, is passed invoking the said provision. Since this order being Appealable, as provided by Section 152 of the Act, there is an embargo for entertainment of revision under Section 154 of the Act.

8. Though it was sought to be argued on behalf of Counsel for Respondent No. 4 that there was no objection raised to the jurisdiction of Minister in proceedings before him or even in this Petition, this Court finds that the order dated 26.11.2024 being passed under Section 78A of the Act and Appeal is provided, the proceedings before Minister filed under Section 154 of the Act by way of revision, could not be held to be tenable. This Court, therefore, finds it appropriate to grant the request made by the Counsel for Respondent No. 4 for permitting him to file an Appeal.

9. In view of above, if the Appeal is filed

within a period of 10 days from today, the objection of limitation shall not be raised nor to be entertained.

10. In so far as continuation of the order passed by the Minister is concerned, for a limited period, this Court finds substance in the contention of learned Counsel for Respondent No. 4 that in case an objection was raised before the Minister about his jurisdiction, it was open for the Respondent No. 4 to file the Appeal by withdrawing revision forthwith. Since this has not been done, this Court finds it appropriate to extend the order passed by the Minister for a limited period.

11. Learned Counsel for the Respondent, on instructions, has made statement that no policy decision would be taken during this period by Respondent No. 4 or the Managing Committee. The order of the Minister to continue for a period of 7 days of filing of the proceedings before the Appellate Authority.

12. It is hereby clarified that the order passed by the Minister impugned in this Petition shall stand set aside on expiry of period of 17 days from today.

Needless to say that Appellate Authority is not bound by the order passed by the Minister nor any observations made therein. All issues on merit are kept specifically open for agitation in Appeal so filed.

13. In order to remove any apprehension with regard to the non receipt of such notice, learned Senior Counsel for the Petitioner with consent of Petitioners who is present in the Court, makes statement that notice of such Appeal be served on the Advocate on record for the Petitioner in this Petition. Learned Counsel for Respondent No. 4 undertakes to serve notice of Appeal accordingly before Appeal is moved for any relief. These statements are accepted as undertaking to this Court.

14. Petition stands disposed of in above terms.

(R. M. JOSHI, J.)