



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6316 OF 2024

Sampada Nagari Sahakari Patsanstha Ltd.,
Ahmednagar through its Liquidator
1st Floor, Lltaki, Ahmednagar,
District Ahmednagar.
Through its Liquidator.

... PETITIONER

VERSUS

1. The Divisional Joint Registrar,
Co-operative Societies, Nashik Division,
Nashik.
2. Sau. Sunita w/o. Satish Pathare,
Age : 39 years, Occu. Household and Agril.,
R/o. At. Jawala, Taluka Parner,
District Ahmednagar.
3. Sarjerao Gopal Jadhav,
Age : 46 years, Occu. Agril.,
R/o. Devibhoyare, Taluka Parner,
District Ahmednagar.
4. Rajendra Maruti Chaudhari,
Age : 49 years, Occu. Agril.,
R/o. Parner, Taluka Parner,
District Ahmednagar.
5. The Assistant Registrar,
Co-operative Societies (Parseva),
Ahmednagar District Patsanstha Sahakaari
Federation Limited, Ahmednagar.

... RESPONDENTS

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- Mr. V. H. Dighe, Advocate for the Petitioner
 - Ms. Kalpalata Patil – Bharaswadkar, Addl. G.P. for Respondent Nos. 1 and 5
 - Mr. R. A. Tambe, Advocate for Respondent No. 2
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CORAM : ROHIT W. JOSHI, J.
DATE : 16th JUNE, 2025

ORDER :

1. The present petition takes exception to order dated 06.05.2024, passed by the Divisional Joint Registrar of Co-operative Societies, Nashik Division, Nashik in Revision Application No. 96 of 2023, whereby the said authority has condoned delay of around 13 years caused in challenging order dated 18.03.2010 passed by the Assistant Registrar, Co-operative Societies, Ahmednagar, issuing certificate under Section 101 of the Co-operative Societies Act, 1960. Having condoned the delay, learned authority proceeded to allow the revision application filed under Section 154 of the said Act vide order dated 13.05.2024.

2. The petitioner is a Credit Co-operative Society registered under the Maharashtra Co-operative Societies Act. The petitioner had initiated a proceeding under Section 101 of the Co-operative Societies Act against respondent nos. 2 to 4 for recovery of amount of Rs. 3,76,560/-. The said application was allowed vide order dated 18.03.2010. Initially, against the said order dated 18.03.2010,

respondent no. 2 preferred an appeal under Section 152 of the said Act on 29.03.2023. Respondent No. 2 has also filed an application for condonation of delay. The order and certificate issued under Section 101 are subject to revisional jurisdiction of respondent no. 1, and accordingly, the said appeal was treated as a revision.

3. By order dated 07.06.2023, the delay caused in filing of the revision application was condoned and execution of the certificate was stayed by respondent no. 1. The petitioner approached this Court by filing Writ Petition No. 6332 of 2023. The order dated 07.06.2023 was quashed in the said petition on the ground that the revision was entertained despite non-compliance with the mandatory condition of depositing 50% of the amount recoverable as per the certificate. Thereafter, respondent no. 2 has thereafter deposited the amount in compliance of the statutory provision.

4. On the second occasion, the revision application was taken up for hearing after remand and was allowed finally vide order dated 12.12.2023. However, on this occasion, the delay was not condoned, while the revision was allowed on merits. The petitioner again approached this Court vide Writ Petition No. 1445 of 2024. This Court was pleased to quash the order dated 12.12.2023 and remand the matter for decision afresh vide order dated 28.03.2024, directing that the

application for condonation of delay should be taken up first, and only if the delay is condoned, the revision should be considered on merits.

5. After the second remand, respondent no. 1 condoned the delay vide order dated 06.05.2024. Having so condoned the delay, the revision is allowed vide order dated 30.05.2024. Both these orders are impugned in the present petition by the Society. Perusal of the order dated 06.05.2024 demonstrates that the authority has dealt with merits of the matter without advertng to the cause of delay. It needs to be mentioned that the delay is an inordinate delay of 13 years, which has been condoned without dealing with the explanation offered in support of condonation. The learned authority has, however, dealt with the merits of the matter while condoning the delay. It is now well settled by a catena of decisions that merits of the matter cannot be looked into while considering application for condonation of delay. The authority has completely misdirected itself in condoning the delay solely dealing with merits of the matter. The order of condonation of delay dated 06.05.2024, therefore, deserves to be quashed and set aside, and is accordingly quashed.

6. As stated above, having condoned the delay, the authority also allowed the revision on merits vide order dated 30.05.2024. The revision application has been allowed placing reliance on undated

certificate issued by some person on a plain paper. The signature of the person is affixed along with rubber stamp, which reads thus :

“For Sampada Nagari Sahakari Patasanstha Ltd.”

7. Besides the rubber stamp, another rubber stamp which is purportedly round seal of the petitioner society appears on the said document. The document does not bear any date. It is stated that respondent no. 2 had taken loan of Rs. 3,30,000/- for purchasing a vehicle on 27.08.2007 and that she repaid the entire loan amount along with interest on 25.09.2009. However, the amount actually paid is not mentioned in the said certificate. The component of interest is also not mentioned. The certificate further recites that, in view of repayment of loan, charge created by of the petitioner society over the vehicle purchased by respondent no. 2 was released.

8. The learned counsel for the petitioner states that there are several offences registered against the Manager of the Society for issuing such certificates. He states that the record of the Society does not indicate that payment of loan was refunded or received in the account of the Society. The petitioner was heard on merits earlier, during the course of hearing on 10.06.2024. A query was put to the learned counsel for respondent no. 2 as to whether he has any other document to substantiate that the loan amount was actually repaid. This query was

specifically posed in view of the fact that the certificate does not reflect that the loan amount was deposited from time to time. The certificate records that entire outstanding amount was paid on single day, and apparently under one single entry. If such a large amount was paid through a single transaction, respondent no. 2 would normally have some documentary evidence, such as a bank statement, to substantiate the same. However, learned counsel for respondent no. 2 has stated that such documentary evidence is no longer available with respondent no. 2. He contends that the certificate records that the payment was made on 25.09.2009, and after a period of 14 years, it is plausible that such evidence may have been lost.

9. However, since I am convinced that the learned authority has committed a jurisdictional error in condoning the delay without dealing with the reasons for the delay, it will not be proper to comment on merits of the matter any further, since the order passed below the application for condonation of delay is liable to be rejected. The consequential order allowing the revision on merits also deserves to be quashed and set aside.

10. The learned counsel for respondent no. 2 has strongly argued that the delay is properly explained inasmuch as it is contended

in the application that notice of the original proceeding was not received by respondent nos. 2 to 4, and they gained knowledge about the certificate only upon receiving notice in the execution proceeding in the year 2023. However, this contention is also not dealt with by the revisional authority. The revisional authority has not recorded any finding regarding the correctness or otherwise of the said contention.

11. The writ petition is partly allowed by quashing and setting aside orders dated 06.05.2024 (condoning the delay) and 30.05.2024 (allowing the revision on merits). The matter is remitted back to the file of respondent no. 1 for deciding the application for condonation of delay first, and then, in the event the delay is condoned, to decide the revision on merits in accordance with law.

12. Parties shall appear before respondent no. 1 on 01.07.2025. Parties to note that separate notice of appearance will not be issued. It will be open for the parties to amend their pleadings in the application for condonation of delay and the reply thereto, and lead evidence if they so desire.

13. Needless to mention that since the revision is restored to file, the interim order passed in favour of respondent no. 2 shall continue

till the revision is decided on its merits. However, if the delay is not condoned, the interim order shall operate only till the date of said order rejecting application for condonation of delay.

14. The application for condonation of delay be decided on or before 31.10.2025. In the event, the delay is condoned, the revision be decided on or before 31.12.2025.

15. Needless to mention that the authority shall not be influenced by the observations made herein, which are made only for the purpose of holding that application for condonation of delay is not decided properly.

**[ROHIT W. JOSHI]
JUDGE**