

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 775 OF 2025

The Karad Urban Co-operative Bank Ltd.	}	
	}	Petitioner
Versus		
Learned Commissioner & Registrar (Administration),	}	
Co-operative Societies, Pune	}	
& Ors.	}	Respondents

Mr. Prithviraj S. Gole for petitioner.

Ms. Neha Bhide, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. S. R. Crasto, AGP for respondent no. 1.

Mr. Rahul Patil with Ms. Heena Suvaranakar for respondent no. 3.

**CORAM: ALOK ARADHE, CJ. &
BHARATI DANGRE, J.**

DATE: JANUARY 30, 2025

P.C.: (Per Chief Justice)

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has assailed the validity of the order dated 16th November 2023 passed by the Commissioner and Registrar, Co-operative Societies, Pune under section 81(3)(C) of the Maharashtra Co-operative Societies Act, 1960 (hereinafter referred to as "the Act of 1960"), by which respondent no. 2 has been appointed as Special Auditor to conduct test audit. The petitioner has also assailed the validity of the audit report dated 26th February 2024 submitted by respondent no. 2.

2. Learned counsel for the petitioner submitted that the Commissioner and Registrar, Co-operative Societies, Pune ought to have appreciated that the borrower, under the Government Resolution dated 6th June 2022, had remedy to approach the Co-operative Court under section 91 of the Act of 1960 and therefore, at his instance, the order appointing the Special Auditor could not have been passed.

3. We have considered the submissions made by learned counsel for the petitioner and have perused the record.

4. It is trite law that extra ordinary jurisdiction of this Court under Article 226 of the Constitution is discretionary in nature and delay defeats equity. This Court in exercise of powers under Article 226 of the Constitution would not grant relief to a indolent person who has slept over his rights. It is equally well settled legal proposition that a person who acquiesced with a wrongful action would be treated as fence sitter. The delay and laches would be a valid ground to dismiss their claim [See: **S. S. Balu vs. State of Kerala**¹, **Vijay Kumar Kaul vs. Union of India**², **U. P. Power Corporation Limited vs. Ram Gopal**³, **State of U. P. vs. Arvind Kumar Srivastava**⁴].

5. On the touchstone of the aforesaid well settled legal principles, we may revert to the facts of the case in hand. In the instant case, the Commissioner and Registrar, Co-operative Societies passed the order on 16th November 2023. The petitioner did not take any action to challenge the authority of the respondent no. 1 to appoint the Special Auditor and

¹ (2009) 2 SCC 479

² (2012) 7 SCC 610

³ (2021) 13 SCC 225

⁴ (2015) 1 SCC 347

acquiesced with the appointment of the Special Auditor. The petitioner waited and permitted the Special Auditor to conduct the test audit and submit an audit report on 26th February 2024. Even the aforesaid report was submitted merely 10 months ago. The petitioner, in our opinion was waiting for the Special Audit report to be submitted. Even otherwise, the petitioner has not sustained any legal injury, inasmuch as, the petitioner has authority to raise an objection with regard to the Special Audit report.

6. In view of the aforesaid, we are not inclined to entertain the writ petition. However, liberty is reserved to the petitioner to raise an objection with regard to the Special Audit Report, if so advised.

7. With the aforesaid liberty, the writ petition is disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)

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