

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

WRIT PETITION NO.5087 OF 2024

Shankar Vitthal Patil

...Petitioner

V/S

Divisional Joint Registrar

Co-operative Societies & Ors.

...Respondents

Mr. Nilesh Wable a/w Mr. Nikit Pawar i/b Mr. Umesh R. Mankapure *for the Petitioner.*

Mr. Hamid Mulla, AGP *for Respondent Nos.1 and 2 / State.*

CORAM: SANDEEP V. MARNE, J.

DATE : 23 JUNE 2025.

P.C.:

1. The Petition challenges order dated 11 March 2024 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur, rejecting the Revision filed by the Petitioner and confirming the order dated 30 November 2023 passed by the Assistant Registrar, Co-operative Societies. By order dated 30 November 2023, the Assistant Registrar has disqualified the Petitioner from being Chairman of the Society under provisions of Section 73-CA(1)(iv) of the Maharashtra Co-operative Societies Act, 1960 (**the MCS Act**).

2. I have heard Mr. Wable, the learned counsel appearing for the Petitioner and Mr. Mulla, the learned AGP appearing for

Respondent Nos.1 and 2/State. Despite services of notice none had appeared on behalf of Respondent Nos.3 and 4.

3. Perusal of the impugned order dated 30 November 2023 passed by the Assistant Registrar would indicate that the Petitioner was yet to complete period of membership of two years. Additionally he had not borrowed any amount from the Society before contesting the election on 29 March 2022. He secured the loan from the Society only on 7 January 2023. The Assistant Registrar has accordingly recorded a finding that Petitioner acquired disqualification within the meaning of Section 73-CA(1)(iv) of the MCS Act in view of the Circular dated 17 December 2014 issued by the Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State. Petitioner has not produced the said Circular dated 17 December 2014 with a view to demonstrate as to how he did not acquire disqualification within the meaning of Section 73-CA(1)(iv) of the Act.

4. Petitioner has contested the election from borrower category without making any borrowing from the Respondent No.4-Society. He got elected on 29 March 2022 and obtained loan only on 7 January 2023.

5. Though not specifically pleaded in the Revision Application filed before the Divisional Joint Registrar, Mr. Wable has raised

a contention that the Petitioner's father was a borrower and after his death the liability to repay the loan was on the Petitioner and that the said loan was in subsistence as on the date of contesting the election on 29 March 2022. Attention in this regard is invited the findings recorded by the Assistant Registrar in the order dated 30 November 2023. However, it appears that Petitioner's father had availed loan of Rs.45,000/- on 29 October 2018 and he repaid the same on 13 December 2022 and thereafter resigned from the membership of the Society on 3 January 2023. The Petitioner's father thus continued repaying the loan till 29 March 2022 when the election was contested by him. There is no material to infer that the loan got transferred in the name of Petitioner on account of his father's death. Therefore, it is difficult to believe that Petitioner would fit in the definition of the term 'borrower' within the meaning of the MCS Act as on the date of contesting of election on 29 March 2022, when his father was apparently repaying the borrowed amount upto 13 December 2022.

6. Also of relevance is the fact that in the Revision Petition, the Petitioner did not raise the ground of he becoming a 'borrower' on the strength of unpaid loan amount of his father as on the date of contesting of the election. Though this point was raised before the Assistant Registrar, the Petitioner consciously did not raise the same before the Divisional Joint Registrar in Revision Petition. Such conduct would exhibit lack of confidence

on the part of the Petitioner about correctness of the said ground.

7. In my view therefore, there is no warrant for interference by this Court in exercise of jurisdiction under Article 227 of the Constitution of India in the concurrent findings recorded in the impugned orders passed by the Assistant Registrar and the Divisional Joint Registrar. The Petition is accordingly **rejected**.

8. After the order is pronounced, Mr. Wable would pray for continuation of the interim order granted by this Court on 8 April 2024 for a period of eight weeks. Considering the findings recorded while rejecting the Petition, I am not inclined to continue the interim order. Prayer for continuation of interim order is accordingly rejected.

(SANDEEP V. MARNE, J.)

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SUDARSHAN
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KATKAM
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