

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11078 OF 2024**

1. Shri Vishwas Laxman Karande,
age 50 years, Occ. Agriculture,
R/o at Gorambe, Taluka Kagal,
District Kolhapur. Petitioner

VERSUS

1. The Hon'ble Minister for Co-operation,
State of Maharashtra,
Having it's Office at Mantralaya,
Mumbai.
2. The Divisional Joint Registrar,
Cooperative Societies, Kolhapur
3. The Assistant Registrar,
Cooperative Societies, Kagal,
Kolhapur.
4. Shree Jaybhavani V.K.S. Vikas Seva Sanstha,
Ltd., Gorambe, Taluka Kaga,
District Kolhapur. Respondents

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Advocate for Petitioner : Mr. Chetan G. Patil A/w Prathamesh P.
Magdum a/w Siddheshwari R. Chavan i/b Mr. Mandar G. Bagkar
AGP for Respondents 4 : Mr. Ruturaj Pawar
AGP for Respondents 1-3 : Mr. S.D. Rayrikar

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CORAM : S. G. CHAPALGAONKAR, J.

Reserved on : 25th September, 2025

Pronounced on : 06th November, 2025.

JUDGMENT :-

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.
2. The petitioner impugns order dated 27.6.2024 passed by respondent no.1-Hon'ble Minister Co-operation, Maharashtra State in

Revision Application No.204 of 2023, thereby confirming expulsion of petitioner from Membership of respondent no.4-Society.

3. The respondent no.4 is Society registered under provisions of Maharashtra Co-operative Societies Act. The Society is functional since 2002. The petitioner was admitted as Member of Society. He availed services of loan from respondent no.4-Society and regularly repaid the same. In year 2018-2019 petitioner was refused loan by Managing Committee. In this background, petitioner had availed facility of loan from another Society namely Shri Mahadev Vikas Society. Later on, he resigned from membership of Mahadev Vikas Society and ceased to be member of said society. However, later on, respondent no.4 refused to entertain petitioner's request for credit facility. The petitioner approached respondent no.2-Divisional Joint Registrar and respondent no.3-Assistant Registrar complaining illegal refusal of Credit Facility to him. Enraged by complaints made by petitioner, Managing Committee of Respondent no.4-Society served notice dated 13.8.2021 to petitioner informing him that in Annual General Meeting, scheduled on 21.9.2021, agenda for his expulsion from membership of society would be discussed. The petitioner filed detailed reply defending proposed expulsion on the ground that reasons given are insufficient to take a drastic action of expulsion from membership. However, without giving opportunity of personal hearing, Resolution has been passed for expulsion of petitioner. The

respondent no.3 approved Resolution vide his order dated 28.2.2022. Aggrieved petitioner filed Appeal before respondent no.2-Joint Registrar under Section 152 of Maharashtra Co-operative Societies Act, 1960 (for short 'Act of 1960'). The said Appeal was allowed vide order dated 16.2.2023 and order dated 20.2.2022 passed by Assistant Registrar came to be quashed and set aside. The Joint Registrar observed that although Respondent no.4-society has adhered with procedure prescribed for expulsion of member, there is nothing to indicate that petitioner acted detrimental to the interest or proper working of society. As such, drastic action of expulsion cannot be approved.

4. The respondent no.4-Society filed Revision under Section 154 before Hon'ble Minister, who pleased to quash and set aside order passed by respondent no.2 and remanded matter back observing that there is no deliberation by respondent no.2 as to existence of grounds enumerated under Rule 28 read with Section 35 of Act of 1960 in impugned order dated 16.02.2023.

5. Mr. Chetan Patil, learned advocate appearing for petitioner would submit that petitioner has been victimized only because he raised grievance against illegal refusal of credit facility by respondent no.4-Society. He would submit that a member can be expelled only if his act is detrimental to the interest or proper functioning of the

society. If petitioner has raised any grievance or availed his democratic right against illegal act of Managing Committee, thereby refusing loan to him, Managing Committee of Respondent no.4 Society could not have taken resort for expulsion of petitioner. The Resolution of Society is mechanically passed without granting opportunity of personal hearing to petitioner. The entire allegations against petitioner are *ex-facie* false. Therefore, impugned action of expulsion is liable to be quashed and set aside.

6. Mr. Patil, would further submit that respondent no.2-Divisional Joint Registrar had rightly observed that action of expulsion of petitioner was not in tune with mandate under Section 35 read with Rules 28 and 29 of Act of 1960 and Rules framed thereunder. The Hon'ble Minister has erroneously remanded proceeding back without giving adequate reasons for remand.

7. Per contra, Mr. Ruturaj Pawar, learned advocate appearing for respondent no.4 supports impugned order. He would submit that Divisional Joint Registrar had specifically observed that respondent no.4-Society had followed procedure for expulsion. However, disturbed Resolution of Society without assigning proper reasons. In this background, Hon'ble Minister is justified in remanding matter back for recording finding on relevant issues.

8. Having considered submissions advanced by learned advocates appearing for respective parties, it can be observed that admittedly, petitioner is a Member of respondent no.4-Society since 2002. He had availed loan facility from Society and repaid the same. However, in year 2018-2019 Managing Committee of Society refused credit facility to petitioner. Therefore, he filed complaint alleging illegal refusal of credit facility to Competent Authority i.e. Assistant Registrar as well as Joint Registrar. On 13.8.2021, petitioner was served with show cause notice alleging that petitioner had availed loan facility from another Society namely Mahadev Vikas Seva Sanstha, Gorambe and attempted to raise loan in name of mother from respondent no.4-Society. Thereafter, again he raised demand of loan from respondent no.4-Society and indulged in making false complaints against Society to the Authorities. As such, he is acting against interest of Society, so also causing disrepute to society. It is accordingly stated as to why petitioner shall not be expelled from Membership. The subject of expulsion is incorporated in Agenda of meeting to be held on 21.09.2021. The petitioner has replied to show cause notice and explained averments in show cause notice stating that he has already resigned from Membership of Mahadev Seva Sanstha. However, on 7.3.2019, he has been refused loan facility. Therefore, he required to approach concerned authorities raising his grievance. The subject of expulsion of petitioner was taken up in General Body meeting of

Society dated 21.09.2021 and same has been approved. The Assistant Registrar approved said Resolution vide his order dated 28.02.2022 passed in Appeal No.3 of 2021. In this background, contentious issues that arises for consideration in this writ petition are as under :-

- i. Whether conduct of the petitioner was detrimental to the interest or proper working of society or brings disrepute to the Society?
- ii. Whether Hon'ble Minister is justified in setting aside order passed by Joint Registrar in exercise of revisional jurisdiction and remit matter back for re-consideration ?

9. Section 35 of Maharashtra Cooperative Societies Act provides for expulsion of the Member, which reads thus :-

“35. Expulsion of members :-

(1) A society may, by resolution passed 1[by a majority of not less than three-fourths] of the members entitled to vote who are present at a general meeting held for the purpose, expel a member for acts which are detrimental to the interest or proper working of the society :

Provided that, no resolution shall be valid, unless the member concerned is given an opportunity of representing his case to the general body, and no resolution shall be effective unless it is approved by the Registrar.

(2) No member of a society who has been expelled under the foregoing sub-section shall be eligible for re-admission as a member of that society, or for admission as a member of any other society,

for a period of one year from the date of such expulsion :

Provided that, the Registrar may, on an application by the Society and in special circumstances, sanction the re-admission or admission, within the said period, of any such member as a member of the said society or of any other society, as the case may be.”

10. The State of Maharashtra in exercise of powers conferred under sub-sections (1) and (2) of Section 165 of the Act of 1960 made Maharashtra Cooperative Societies Rules, 1961. Rule 28 prescribes for expulsion of the Member, which reads thus :-

“28. *Expulsion of Members :-*

Any member who has been persistently defaulting payment of his dues or has been failing to comply with the provisions of the by-laws regarding sales of his produce through the society, or other matters in connection with his dealings with the society or who, in the opinion of the committee, has brought disrepute to the society or has done other acts detrimental to the interest or proper working of the society may, in accordance with the provisions of sub-section (i) of Section 35, be expelled from the society. Expulsion from membership may involve forfeiture of shares held by the member. (Subs. by G.N. of 18-12-1979)

Rule 29 provides for the procedure for expulsion of Member, which reads thus :-

29. *Procedure for expulsion of members:-*

(1) Where any member of a society proposes to bring a resolution for expulsion of any other member, he shall give a written notice thereof to the Chairman of the society. On receipt of notice or when the committee itself decides to bring in such resolution, the consideration of such resolution shall be included in the agenda for the next general meeting and a notice thereof shall be given to the member against whom such resolution is proposed to be brought, calling upon him to be present

at the general meeting to be held not earlier than a period of one month from the date of such notice and to show cause against expulsion to the general body of members. After hearing the member, if present, or after taking into consideration any written representation which he might have sent, the general body of members shall proceed to consider the resolution.

(2) When a resolution passed in accordance with sub-rule (1) is sent to the Registrar or otherwise brought to his notice, the Registrar may consider the resolution and after making such enquiries as he may deem fit, give his approval and communicate the same to the society and the member concerned. The resolution shall be effective from the date of such approval.

11. The respondent No.4-Society has adopted model bye-laws. Clause No.16 prescribes expulsion of Member by way of Resolution to be passed by 3/4th majority in General Meeting. Clauses (b) and (c) adopt language of Section 35 and Rule 28 of the Act of 1960 and Rules respectively, as grounds for expulsion apart from other grounds, which are not relevant in the present case.

12. The harmonious reading of aforesaid provisions would depict that Society possesses power to expel member, particularly, when his acts are detrimental to the interest or proper working of Society or brings disrepute to the Society. The minute reading of show cause notice dated 13.8.2021 served upon petitioner would show that petitioner has been alleged of making complaints to higher Authorities against functioning of Society. The notice nowhere stipulates specific allegation that would constitute act detrimental to interest or proper working of the Society or that would bring

disrepute to the Society. The notice nowhere refers to particular communication made by petitioner to higher Authority or language used in such communication that would constitute disrepute to the Society. It is not specified how communications made by petitioner were detrimental to the interest or proper working of the Society. It simply suggests that demand of loan by petitioner was not proper, once he had obtained loan from the other Society.

13. The petitioner has filed detailed reply dated 01.09.2021 to show cause notice and explained that he had already resigned from membership of 'Mahadev Vikas Sanstha' and also informed Society that he is going to obtain loan from respondent no.4-Society. In spite of aforesaid facts, he has been denied disbursement of loan facility. It appears that, respondent no.3 approved Resolution/Decision taken by Society observing that Society has undertaken procedure prescribed and passed unanimous Resolution of expulsion. The respondent no.2 in Appeal observed that only because petitioner made representation to higher Authorities complaining about non-disbursement of loan to him, his act cannot be treated as detrimental to the interest of the Society.

14. The Division Bench of this Court in case of ***Bhaskar Laxman Rane Vs. Shri Gurudev Nityantar Housing Society***¹, observed as under :-

¹ 1998 (3) Mh.L.J. 127.

“Admittedly, expulsion of Member has serious consequences and it casts a stigma on person’s image in the Society. Section 35 of the Act requires a resolution to be passed by a majority of not less than 3/4th of the members entitled to vote who are present at a general meeting held for the purpose of expelling a member for acts which are detrimental to the interest or proper working of the society.”

15. Similarly Division Bench of this Court in case of ***K.V. Sundaram Vs. Rajeshvari. Co-operative Housing Society***², observed in paragraph no.17 of judgment after giving reference to the language of Rule 29 that:

*“though Rule 29 contemplates the Registrar making a summary inquiry before giving his approval, having regard to consequence which follows the decision of the Registrar to approve expulsion, the Registrar has to give notice to the member concerned and provide a reasonable opportunity of being heard and as to why resolution of expulsion should not be approved. The decision contemplated by Section 35 is not a mere mechanical or idle formality. **Registrar has to consider merits of a case and not merely look formality of section 35 and but himself consider merits of the case.** The opportunity is sought to be removed under Resolution passed by the Society’.*

16. In light of the aforesaid exposition of law, it can be observed that expulsion of member is a drastic action. Such an action shall be preceded by procedure contemplated under Section 35 read with Rule 29 of the Act. Similarly, Registrar, who is considering for his approval has to consciously apply his mind not only to procedure contemplated under law, but also requires to find out if reason for expulsion as

² 1980 (3) Mh.L.J. 4.

available under the Act, Rules or bye-laws has been made out against Member to be expelled.

17. In the present case, as observed in aforesaid paragraphs, show cause notice simply engrafts words that petitioner has made frivolous complaints against Society detrimental to the interest or proper working of the Society. No further elaboration is made as to the acts of the petitioner. No reference is given to particular complaint made to the particular Authority by petitioner or language employed therein. Even, notice nowhere stipulates as to how representation made by petitioner to higher Authorities has caused hindrance in proper working of Society or brought disrepute to the Society. The Division Bench of Gujarat High Court in case of **Rajendra S. Reddy Vs. Additional Registrar**³. Paragraph Nos.8 and 9 of the said judgment reads thus :-

“8. Apart from the above, the ground of approaching before the Court by any member of the Society perse cannot be termed as detrimental to the interest of the society. If such is read as detrimental to the interest of the society, the basic democratic structure in any cooperative housing society including that of freedom of the member to approach before the Court of law, if any injustice is caused to him would be frustrated.

9. Even otherwise also, in a democratic setup, no citizen would be put to a disadvantageous position, if he or she has approached to the Court of law for seeking justice. If such is curtailed at the entry point, it would adversely affect the system of the administration of justice and consequently, the basic structure

³ (2008) 4 GLR 2772.

prevailing in the democratic setup. Merely because a member has approached to the Court for ventilating his grievances against the office bearers of the Society can hardly be termed as an action detrimental to the interest of the Society. In a given case, if the Court or the forum before whom the member has approached may not accept the contention or may impose the penalty for bringing a wrong cause before the Court or the forum, is a different aspect, but one who is facing the litigation viz. office bearers of the Society cannot create an atmosphere of no opposition whatsoever against any action of them by any of the member. If such power is read under Section 36 of the Act, it would not only curtail the basic freedom of the members of a Society, but it would also be against the interest of the co-operative movement in a free and fair atmosphere. Hence, approaching before the Court by any member against the office bearers of the Society cannot be termed as an action detrimental to the interest of the Society and therefore, such ground would be outside the exercise of the power under Section 36 of the Act.”

18. In light of aforesaid exposition of law, it is difficult to hold that only because petitioner had represented to higher Authorities alleging wrongful refusal of credit facility to him, he has acted detrimental to interest and proper working of society. The respondent no.3 while approving Resolution of the society did not apply his mind to the nature of imputations against petitioner. He simply records that Society had rightly followed procedure for expulsion and rejected reply filed by petitioner. The Joint Registrar has rightly observed that there is nothing on record depicting that conduct of petitioner would constitute valid ground for expulsion and merely because petitioner has raised grievance about non-disbursement of Credit Facility to

higher Authorities, his conduct cannot be termed as detrimental to the interest or proper working of the Society.

19. In this background, Hon'ble Minister has erroneously remanded matter back by setting aside well reasoned order passed by Joint Registrar. Apparently, when show cause notice issued to petitioner could not make out specific foundation referring to any material detrimental to the interest of the Society or to disrepute Society, no further deliberation can be made in this regard. The entire action of Society is based on two lines allegation that petitioner has made false representation to higher Authorities without pointing out any particular falsity in particular representation made by petitioner.

20. At this stage, learned advocate appearing for respondent placed his reliance on observations of this Court in case of *V. Shreenivasan v. State of Maharashtra and Others*⁴, to contend that there is no reason to give restricted interpretation to expression "Acts" detrimental to the interest or proper working of the Society. Once bye-laws specifically attempts to define such acts that would fall within mischief of acts detrimental to the interest or proper working of the Society. However, in present case, even by taking language of bye-laws, Section 35 read with Rule 28, no case can be made out against petitioner to bring his acts within meaning of acts detrimental to Society or acts bring disrepute to the Society. If a Member is

⁴ (2003) 3 Mh.L.J. 189.

prevented from raising his grievance against Management of Society, it would be against spirit of democratic set up, which is an object of bringing the cooperative regime. No member can be condemned only because he raised grievance about mal-functioning of Society or against injustice caused to him by Management of Society in matter of disbursement of credit facility.

21. In that view of matter, this Court holds that Resolution of respondent no.4-Society is *per se* illegal. Similarly, order of remand passed by Hon'ble Minister is unjustified.

22. In the result, writ petition is allowed in terms of prayer clause "A".

23. Rule is made absolute in above terms.

24. Eventually, order passed by respondent no.2 is restored.

(S.G. CHAPALGAONKAR, J.)

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