

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 19389 OF 2024

Vilas Tukaram Magdum and Ors.

....*Petitioners*

V/s.

State of Maharashtra & Ors.

....*Respondents*

Ms. Kalyani M. Mangave, *for the Petitioners.*

Mrs. Savita A. Prabhune, *AGP for the Respondent-State.*

Mr. Prashant Bhavake, *for Respondent No.2.*

CORAM : SANDEEP V. MARNE, J.

Date : 2 January 2025.

P.C. :

1) The petition challenges order dated 10 October 2024 passed by the Hon'ble Minister, Co-operation granting stay to the order dated 29 December 2023 passed by Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur.

2) It appears that Petitioners had earlier instituted Writ Petition No. 13671/2024 challenging order dated 24 September 2024 by which the Hon'ble Minister had closed the Revision Application for orders and the grouse of the Petitioners was that the Revision Application was closed without granting an opportunity of hearing to them. This Court accordingly passed following order dated on 4 October 2024 in Writ Petition No. 13671/2024.

5. Accordingly, the following order is passed :-

- (a) The order dated 24th September 2024 passed in Revision Application No.208 of 2024 is set aside.
- (b) The petitioners shall file their reply to the stay application within a period of one week from today.
- (c) The Hon'ble Minister can hear the parties on the stay application on 11 October 2024 on or any other convenient date with due notice to the parties.
- (d) The time to decide the stay application is accordingly extended for a further period of four weeks from today.
- (d) All points on merits are kept open.

3) Thus, order dated 4 October 2024 passed in Writ Petition No. 13671/2024 envisaged grant of opportunity to the Petitioner to file reply to the stay application and hearing of such stay application either on 11 October 2024 or on any other convenient date. However it appears that on 10 October 2024 itself, the Hon'ble Minister, Co-operation proceeded to decide the stay application. Curiously, the order dated 10 October 2024 does not refer to the reply filed by the Petitioners opposing the said application. Thus, the order dated 10 October 2024 is passed in breach of order by the Division Bench on 4 October 2024. Order dated 4 October 2024 is therefore liable to be set aside.

4) Petition accordingly succeeds and I proceed to pass the following order :

- (i) Order dated 10 October 2024 passed by the Hon'ble Minister, Co-operation on stay application is set aside.
- (ii) The Hon'ble Minister, Co-operation shall proceed to decide the stay application afresh, after taking into consideration the Affidavit-in-reply filed by the Petitioners, as well as, after granting opportunity of hearing to them.

(iii) The stay application shall be decided afresh within a period of 4 weeks from today.

(iv) Petitioners shall also file Affidavit-in-reply opposing the main Revision Application and the present order shall not come in the way of Hon'ble Minister, Co-operation taking up the main Revision Application itself for hearing and deciding the same after hearing both the sides.

5) With the above directions, the Writ Petition is allowed and disposed of.

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[SANDEEP V. MARNE, J.]