

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.4325 OF 2024**

Shri. Sanjay Dadu Jadhav,
Age: 56 years, Occupation: Agriculture,
R/o. Malewadi post. Tandulwadi,
Tal. Walva, District, Sangli. ..Petitioner

Versus

1. Divisional Joint Registrar,
Co-operative Societies,
Kolhapur Divisional, Kolhapur.
2. Assistant Registrar Co-operative Societies,
Walwa Islampur, Tal. Walwa,
Dist. Sangli.
3. Rajarambapu Sahakari Pani Puravtha
Sanstha Maryadit Malewadi,
Office at Malewadi,
Tal. Walva, District: Sangli. ..Respondents.

**AND
WRIT PETITION NO.4353 OF 2024**

Shri. Hindurao Dadu Jadhav
Age: 62 years, Occupation: Agriculture,
R/o. Malewadi post. Tandulwadi,
Tal. Walva, District, Sangli. ..Petitioner

Versus

1. Divisional Joint Registrar,
Co-operative Societies,
Kolhapur Divisional, Kolhapur.
2. Assistant Registrar Co-operative Societies,
Walwa Islampur, Tal. Walwa,
Dist. Sangli.

3. Rajarambapu Sahakari Pani Puravtha
Sanstha Maryadit Malewadi,
Office at Malewadi,
Tal. Walva, District: Sangli. ..Respondents.

AND

WRIT PETITION NO.4349 OF 2024

Shri. Ananda Dadu Jadhav,
Age: 59 years, Occupation: Agriculture,
R/o. Malewadi post. Tandulwadi,
Tal. Walva, District, Sangli. ..Petitioner

Versus

1. Divisional Joint Registrar,
Co-operative Societies,
Kolhapur Divisional, Kolhapur.
2. Assistant Registrar Co-operative Societies,
Walwa Islampur, Tal. Walva,
Dist. Sangli.
3. Rajarambapu Sahakari Pani Puravtha
Sanstha Maryadit Malewadi,
Office at Malewadi,
Tal. Walva, District: Sangli. ..Respondents.

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Mr. Ruturaj Pawar, Advocate for Petitioners.
Mr. Sanjay D. Rayrikar, AGP for Respondents Nos.1 and 2.
Mr. Nilesh Wable a/w Mr. Parth Pitambare i/by Mr. Umesh R.
Mankapure, Advocate for Respondent No.3.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 10th OCTOBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties,
matters are taken up for final hearing at admission stage.

2. The present Writ Petitions are filed impugning judgment and order dated 25.09.2023 passed by respondent no.1-Divisional Joint Registrar, Co-operative Societies, thereby allowing Revision Applications filed by respondent no.3-Society and setting aside order dated 30.01.2023 passed by respondent no.2-Assistant Registrar, Co-operative Societies directing respondent no.3-Society to admit petitioners as members.

3. The respondent no.3 is lift irrigation co-operative society engaged in business of providing water to its members-agricultural farms. The Society at its inception taken loan from bank for implementing irrigation scheme by mortgaging land of its members. The loan has been paid of by respective members and irrigation scheme is now free from loan. The father of petitioners namely Dadu Jadhav was member of Society. He had submitted Ekarar (affidavit) to create charge to land belonging to him to the tune of Rs.25,800/-, which was subsequently paid of by him in timely manner.

4. On 31.05.2013, petitioners' father passed away leaving behind petitioners, who started cultivating land separately as per family arrangements. The respondent no.3-Society took note of separate cultivation of individual share by petitioners and issued separate water charge bill to them. The passbook to that effect is maintained. On 28.03.2022, petitioners made an application for membership of respondent no.3-Society. However, on 31.03.2022, respondent no.3-

Society rejected membership application of petitioners and communicated its decision on 11.05.2022.

5. The petitioners filed Appeal under Section 23(2) of Maharashtra Co-operative Societies Act, 1960 (for short 'MCS Act, 1960') before respondent no.2, who allowed Appeal and directed respondent no.3-Society to admit petitioners as members. Aggrieved by order passed by respondent no.2, respondent no.3-Society filed Revision before respondent no.1, who pleased to allow Revision Applications vide impugned order dated 25.09.2023. Hence, these Writ Petitions.

6. Mr. Ruturaj Pawar, learned Advocate appearing for petitioners submits that petitioners are individually cultivating their lands, since death of their father. The respondent no.3-Society is supplying them water and also issued independent passbooks and collecting water charges from them. The petitioners, therefore, applied for individual membership and not as legal representatives of their father late Dadu Jadhav. However, respondent no.1 erroneously observed in impugned order that petitioners' applications are governed by provisions of Section 30 of MCS Act, 1960 read with Clause No.28 of Bye-laws of Society, which does not apply to applications for individual membership. He would, therefore, urge that order passed by respondent no.1 is liable to be quashed and set aside and order passed by respondent no.2 needs to be restored, thereby granting individual membership to petitioners.

7. Mr. Nilesh Wable, learned Advocate appearing for respondent no.3-Society vehemently opposes petitions. He submits that petitioners' father was member of respondent no.3-Society. He was holding lands Gut No.396 admeasuring 3.11 R, Gut No.397/1 admeasuring 24R and Gut No.397/5 admeasuring 14R. All these lands were mortgaged with respondent no.3-Society and charge was created by petitioners' father. Till this date, charge is not removed. All legal representatives of Dadu cannot be admitted as members as per Clause 28 of Bye-laws of respondent no.3-Society. One of the family member can be admitted as member in place of deceased Dadu and others can be admitted as associate members. The respondent no.3-Society never refused to supply water. The present applications are moved with political motive and, therefore, respondent no.1 has rightly allowed revision applications setting aside order passed by respondent no.2 directing respondent no.3-Society to admit petitioners as members.

8. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that petitioners' father was member of respondent no.3-Society. He died in year 2013. Since then, petitioners, who are legal representatives are individually cultivating shares of lands. The respondent no.3-Society has issued individual passbooks to them. The petitioners are also individually paying bills of water charges to Society in respect of water supplied to their individual cultivation of portion of lands. Bye-laws no.7

prescribes eligibility for membership of respondent no.3-Society. It requires that person who holds agriculture land within command area of Society and ready to abide by terms and conditions of Society is entitled to become member. Bye-laws further prescribes that person can be admitted as associate member or nominal member as per Section 24 of MCS Act, 1960 with limited rights. Clause No.28 of Bye-laws provides for procedure for transfer of share of legal representatives of deceased member, which prescribes that such transfer shall be in consonance with Section 30 read with Rule 25 of Rules.

9. In present case, petitioners applied for individual membership alongwith requisite documents and prescribed charges. The Society refused to grant membership to petitioners on the ground that only one family member can be admitted in place of their father and others can be given nominal or associate membership giving reference to Bye-law no.28 read with Section 30 of MCS Act and Rule 25 of the Rules.

10. On Appeal filed by petitioners before respondent no.1, respondent no.1 was discarded reasons given by Society and directed Society to add them as member. The respondent no.1 has observed that since petitioners have applied for individual membership and they complied with requirements for grant of membership there was no reason for not admitting them as member. The respondent no.1 has

specifically observed that Section 30 or Rule 25 or Bye-law nos.24 and 28 has no application in facts of case.

11. Section 23 of MCS Act, 1960 prescribes that no Society shall, without sufficient cause, refuse admission to members to any person duly qualified therefor under the provisions of this Act and its bye-laws. Apparently, concept of open membership is promoted under scheme of Act. The refusal to admit membership to any person, who holds requisite qualification cannot be countenanced.

12. In present case, respondent no.3-Society seeks to refuse membership to petitioners citing Clause No.28 of Bye-laws and Section 30 of MCS Act, 1960. Apparently, said provision deals with transfer of share or membership in favour of legal representatives or nominee of deceased member. Perusal of application for membership tendered by petitioners shows that they claimed individual membership and not as legal representatives or nominee of deceased father. The passbooks issued by Society and contents of application form depicts that petitioners are individually cultivating lands. The Society is already supplying water to them towards individual cultivation of lands and collecting charges from them. Such arrangement appears to be from 2013 till this date. In this background, Society cannot refuse individual status of petitioners and right to claim membership.

13. The learned Advocate appearing for respondents submits that lands in question were mortgaged by petitioners' father to Society. The petitioners want to create charge on same lands in pursuance to application for membership. The aforesaid contention is fallacious. Section 25 of MCS Act, 1960 provides for cessation of membership. One of the contingency for cessation of membership is death of member. In that view of matter, membership of petitioners' father has been ceased. So far as charge over lands that was standing in name of petitioners' father is concerned, admittedly dues of Society are cleared. Therefore, it cannot be said that charge created by petitioners' father still subsists. The petitioners are holding their individual shares without any charge and they are entitled to seek membership on basis of their holdings of lands in command area. In light of aforesaid discussion impugned order passed by respondent no.1 cannot be sustained in law. Hence, following order:

ORDER

- a. Writ Petitions are allowed.
- b. The impugned order dated 25.09.2023 passed by respondent no.1-Divisional Joint Registrar, Co-operative Societies, is hereby quashed and set aside.
- c. The order dated 30.01.2023 passed by respondent no.2-Assistant Registrar, Co-operative Societies directing admission of petitioners as members is allowed.

- d. The respondent no.3-Society shall grant individual membership in favour of petitioners by accepting necessary charges towards membership fees and shares within period of eight weeks from today.
- e. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/October-2025