IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12645 OF 2024

Laxman Appanna Lokhande and Ors. ***...Petitioners***

V/s.

The Divisional Joint Registrar, Co-operative Societies, Kolhapur and Ors. ***...Respondents***

Mr. Ramdas A. Shelke *for the Petitioners.*

Mr. Ketan Joshi, *'B' Panel with Ms. Aloka A. Nadkarni, AGP for Respondent Nos.1 and 2-State.*

Mr. Manoj A. Patil *i/b. Mr. Akash M. Murudkar for Respondent Nos.4 and 5.*

CORAM: SANDEEP V. MARNE, J.

Dated: 29 April 2025.

P.C.:

1) Petition challenges order dated 3 July 2024 passed by the Divisional Joint Registrar, Co-operative Societies, Kolhapur Division, Kolhapur, rejecting Revision Application No.181 of 2024 filed by the Petitioners and confirming the order dated 7 June 2024 passed by the Assistant Registrar of Co-operative Societies, Sangli. By order dated 7 June 2024, the Assistant Registrar has disqualified the Petitioners under the provisions of

Section 73-CA of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act)** for a period of 5 years on the ground that Petitioners are defaulters of society.

2) I have heard Mr. Shelke, the learned counsel appearing for the Petitioners, Mr. Patil, the learned counsel appearing for Respondent Nos.4 and 5 and Mr. Joshi, the learned AGP for Respondent Nos.1 and 2.

3) It appears that Petitioners availed various loans from the Respondent-Credit Society. As on 30 March 2024 and 30 April 2024 Petitioners had apparently defaulted in repayment of the loans as per the following chart:-

अ. क्र.	थकबाकीदार संचालकांचे नाव	कर्ज प्रकार	रक्कम	थकबाकी तारीख
१	लक्ष्मण आप्पण्णा लोखंडे	डाळिंब पीक कर्ज	१,५०,०००	३०-४-२०२४
२	आंब्बण्णा इराप्पा कोळी	डाळिंब पीक कर्ज	१,००,०००	३०-४-२०२४
3	भारत दत्तू गायकवाड	कापूस पीक कर्ज	२०,०००	३१-०३-२०२४
४	रावसाहेब मल्लाप्पा तेली	कापूस पीक कर्ज	६५,०००	३१-०३-२०२3
५	यल्लव्वा अर्जुन वालेकर	द्राक्ष पीक कर्ज	४,२०,०००	३०-४-२०२४
			२,१०,०००	३०-४-२०२3

4) Respondent Nos.4 and 5 initiated proceedings for disqualification of the Petitioners on 24 May 2024. Show cause notice was issued to the Petitioners on 30 May 2024. Immediately after receipt of show cause notice, Petitioners apparently repaid the loan amounts to the Credit Society on 30 May 2024. The Assistant Registrar has disqualified the Petitioners after holding that they were defaulters as on 30 April

2024. The Divisional Joint Registrar has upheld the order of disqualification.

5) The sheet anchor of submissions of Mr. Shelke is that earlier Secretary of Respondent-Credit Society was committing several acts of misconduct for which several complaints were filed against him. He would submit that the said Secretary used to carry accounts and records of the society to his residence. It is on account of the activities of earlier Secretary that the Petitioners were prevented from repaying the loan amounts. However, perusal of the replies filed by Petitioners on 5 June 2024 does not indicate any statement about attempt being made by Petitioners for repaying the loan amount. It was not Petitioners' case before the Assistant Registrar that they approached the Secretary on a particular day for repayment of loan amount and that the Secretary refused to accept the same. The alleged misconduct committed by the Secretary is an altogether different matter from liability of Petitioners to repay the loan amounts. In my view therefore, no justification was pleaded by the Petitioners in respect of the defaults committed by them. Even though the Assistant Registrar has not dealt with said defence of the Petitioners, in my view remanding the proceedings to the Assistant Registrar would be nothing but a useless formality. This is because Petitioners did not plead in their reply to the show cause notice that they approached the Secretary of the Credit Society for repayment and that he refused to accept the same. Petitioners were deliberately not repaying the loan amount

on the pretext of alleged misconduct committed by the Secretary. As observed above, mere commission of any misconduct by Secretary could not have been a ground for not repaying the loan amount by Petitioners. It is otherwise inconceivable that Secretary would not accept repayment of loan amount from Directors of the society. There is no averment even in the Petition about the Secretary not accepting the payments offered by the Petitioners.

6) In my view therefore, default on the part of the Petitioners as on 30 April 2024 is conclusively established. The new Secretary apparently took over the charge on 29 April 2024. Petitioners did not immediately repay the loan amount showing thereby that conduct of the earlier secretary was not the real reason for non-repayment of loans. They made repayment only after they received show cause notice for their disqualification under Section 73-CA of the MCS Act. The fact that the amount was repaid would clearly indicate that the amount was due and payable by the Petitioners. The default in that sense is clearly admitted. In ***Yuvraj Datajirao Patil V/s. District Deputy Registrar, Co-op. Societies, Kolhapur***[1] coordinate Bench of this Court held that the moment default is established, disqualification of a director becomes imminent. I am therefore, not inclined to interfere in the orders passed by the Assistant Registrar and Divisional Joint Registrar.

1 2023(2) Mh.L.J. 473

7) Petition is devoid of merits and it is accordingly dismissed without any order as to costs.

[SANDEEP V. MARNE, J.]