IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.13403 OF 2024

Bharat Govind Dhumal ....Petitioner
V/S
The State of Maharashtra
Through Minister of Co-Operation
Co-Operative Department & Ors. ....Respondents

Mr. Balasaheb Deshmukh *for the Petitioner.*

Ms. Sulbha D. Chipade*, AGP for Respondent Nos.1, 3, 4, 6 and 7-State.*

Mr. Narayan Rokade *a/w Mr. Abhang Suryawanshi, Mr. Siddharth Ghodake, Mr. Ramchandra Wagh for Respondent No.2.*

CORAM: SANDEEP V. MARNE, J.
DATE : 21 APRIL 2025.

P.C.:

1. The Petition challenges order dated 29 August 2024 passed by the Hon'ble Minister, (Co-operation) rejecting Petitioners' Revision Application No.205 of 2023 and confirming the order dated 2 March 2023 passed by the Divisional Joint Registrar, Nashik as well as the report of the Enquiry Officer dated 31 Marh 2021.

2. I have heard Mr. Deshmukh, the learned counsel appearing for the Petitioner, Mr. Rokade, the learned counsel

appearing for Respondent No.2-Society and Mr. Chipade, the learned AGP appearing for Respondents/State.

3. After having considered the submissions canvassed by the learned counsel appearing for parties, it appears that Enquiry Officer has recorded a finding that the total amount due from Radhika Education Institution together with interest was Rs.6,90,08,316/-. However as per the certificate issued by the second Respondent-Society a year earlier on 31 March 2020 the total amount due from Radhika Educational Institution was Rs.3,67,82,546/-. It appears that the Enquiry Officer has not taken into consideration the fact that various loan amounts were already repaid by the Petitioner and the outstanding amount as on the date of submission of Enquiry Report dated 31 March 2021 could not have been Rs.6,90,08,316/-. Therefore the proceedings need to be reconsidered by the Enquiry Officer after securing the relevant data from the Respondent-Society about the exact due amount from Radhika Educational Institution in respect of various credit facilities extended to it.

4. Furthermore perusal of the report of the Enquiry Officer does not indicate the manner in which various amounts of losses are distributed amongst all the Directors of the Respondent-Society. The report of the Enquiry Officer is totally silent about the manner in which such loss amount has been distributed amongst the Directors.

5. So far as the penal amount of Rs.1,20,32,632/- levied by the Income Tax Department for acceptance of old currency notes of Rs.1,000/- and Rs.500/- is concerned, the Enquiry Officer has held that the Petitioner alone was responsible for imposition of such penalty amount. Why other Directors are absolved of responsibility for bearing the loss towards penal amount of Rs.1,20,32,632/- has not been dealt with in any manner by the Enquiry Officer.

6. In my view therefore, the proceedings deserve to be remanded to the Enquiry Officer for being decided afresh so that the correct amount of loss attributable to conduct of Petitioner can be ascertained. The Petitioner can be given an opportunity to put forth his case before the Enquiry Officer in the remanded proceedings. Similarly the Respondent-Society shall also provide all necessary data to the Enquiry Officer for ascertainment of the exact amount of alleged loss to the Respondent-Society under the provisions of Section 88 of the Maharashtra Co-operative Societies Act, 1960. It is however clarified that no further liability shall be fastened against other Directors while adjudicating the remanded proceedings.

7. The Petition accordingly succeeds partly and I proceed to pass the following order:

i) Enquiry Officer's report dated 31 March 2021, the order passed by the Divisional Joint Registrar on 2 March

2023 as well as the order passed by the Hon'ble Minister on 29 August 2024 are set aside.

ii) The proceedings are remanded before the Enquiry Officer for being conducted afresh in the light of the observations made above.

iii) Both the parties shall be entitled to assist the Enquiry Officer in ascertaining the exact amount of losses, if any, suffered by the second Respondent-Society.

iv) The Deputy Registrar shall assign the remanded enquiry either to the same Enquiry Officer or nominate another Enquiry Officer depending on the prevalent factual position, within three weeks.

v) The Enquiry Officer shall adjudicate the remanded proceedings in an expeditious manner, preferably within a period of four months from the date of his/her appointment.

vi) Remanded proceedings shall not result in ascertainment of any additional amounts against the other Directors, but the Enquiry Officer shall ascertain the correct amount of losses attributable to the Petitioner.

8. With the above directions, the Petition is **partly allowed** and disposed of. There shall be no order as to costs.

(SANDEEP V. MARNE, J.)