

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.14469 OF 2024

Nanasaheb Baburao Atole & Anr.

....Petitioners

V/S

The State of Maharashtra & Ors.

....Respondents

Mr. P.S. Dani, Senior Advocate a/w Mr. Rushikesh C. Barge
for the Petitioners.

Ms. Savita A. Prabhune, AGP *for Respondent Nos.1 to 3/State.*

Mr. P.K. Dhakephalkar, Senior Advocate a/w Mr. J.G. Aradwad (Reddy) *for Respondent No.4.*

**CORAM: SANDEEP V. MARNE, J.
DATE : 13 FEBRUARY 2025.**

P.C.:

1. The Petition challenges order dated 4 September 2024 passed by the Regional Joint Director (Sugar), Pune, which the Petitioners read as non-adjudication of their Complaint filed under provisions of sub-section 3 of section 79A of the Maharashtra Co-operative Societies Act, 1960 (**MCS Act**).

2. I have heard Mr. Dani, the learned Senior Advocate appearing for the Petitioners, Mr. Dhakephalkar, the learned Senior Advocate appearing for Respondent No.4 and Ms. Prabhune, the learned AGP appearing for Respondent Nos.1 to 3/State.

3. Perusal of the decision dated 4 September 2024 of the Regional Joint Director (Sugar) would indicate that she has not really adjudicated the Complaint filed by the Petitioners and has advised them to approach Co-operative Court under provisions of Section 91 of the MCS Act for setting up a challenge to the Resolution dated 23 December 2023. Petitioners are essentially aggrieved by the Managing Committee's Resolution dated 23 December 2023 to the extent of appointment of 404 new employees by the Respondent No.4-Sugar Factory. According to Respondent No.4, there is no new recruitment and what is done by the Resolution dated 23 December 2023 is merely to alter the nature of said 404 employees from temporary employees to seasonal employees (fixed honorarium). Be that as it may. When similar complaint was raised challenging Resolution dated 4 May 2020 the same was apparently adjudicated by the Regional Joint Director (Sugar) under provisions of Section 79A of the MCS Act and order dated 4 March 2022 was passed rejecting the said Complaint after conducting of enquiry into the allegation of recruitment of excess staff. If Complaint *qua* Resolution dated 4 May 2020 could be adjudicated under Section 79A of the MCS Act, I do not see any reason why the same Officer cannot adjudicate Complaint *qua* Resolution dated 23 December 2023. As a matter of fact the order dated 4 March 2022, which rejected the Complaint *qua* Resolution dated 4 May 2020 later become subject matter of challenge before the Hon'ble Minister (Co-operation) and thereafter before this Court. Instead of deciding the Complaint *qua* Resolution dated 23 December 2023 the

Regional Joint Director has merely advised the Petitioners to file a dispute under provisions of Section 91 of the MCS Act challenging Resolution dated 23 December 2023. The Regional Joint Director (Sugar) does not appear to be consistent in the approach *qua* the two Resolutions. In my view therefore, even the Complaint *qua* Resolution dated 23 December 2023 needs to be adjudicated by the Regional Joint Director (Sugar).

4. Mr. Dhakephalkar would invite my attention to paragraph 17 of the Petition in which Petitioners have admitted initiation of proceedings under section 91 of the MCS Act. According to Mr. Dhakephalkar, the said dispute challenges Resolution dated 23 December 2023. Mr. Dani would clarify that Petitioners are not disputants in the said Dispute Application No.23 of 2024 which is filed by Shri Gulabrao Bajirao Gawade and Shri Ranjankumar Shankarrao Taware. In any case, the nature of enquiry in dispute before Co-operative Court and the nature of enquiry under section 79A of the MCS Act appear to be different since the resultant action in the enquiries conducted under both provisions are also different. Petitioners in the present case are interested in seeking action under Section 79A of the MCS Act on account of the Managing Committee adopting Resolution dated 23 December 2023. In my view, the said Complaint deserves to be adjudicated by the Regional Joint Director (Sugar) as was done *qua* earlier the Resolution dated 4 May 2020.

5. Consequently the Petition succeeds partly. Order dated 4 September 2024 passed by the Regional Joint Director (Sugar) is set aside and the Complaint filed by the Petitioners is restored on the file of the Regional Joint Director (Sugar) who shall proceed to decide the same on its own merits without being influenced, in any manner, by any of the observations made by this Court in the present order. Needless to say that Respondent No.4 shall be accorded due opportunity of hearing before taking any decision by the Regional Joint Director (Sugar). All rights and contentions of parties on merits are expressly kept open.

6. With the above directions, Writ Petition is **disposed of**. No order as to costs.

(SANDEEP V. MARNE, J.)

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