

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

WRIT PETITION NO.1385 OF 2025

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Mr. Dattatray Kachru Aher

..... Petitioner

Vs.

State of Maharashtra & Ors.

..... Respondents

Mr. Narayan Gopinath Rokade a/w. Mr. Siddharth R. Ghodke, A. Suryawanshi and Mr. Harishchandra Jadhav for the petitioner

Mrs. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. G. R. Rahuwanshi, AGP for respondent Nos.1 and 2 – State

**CORAM: ALOK ARADHE, CJ. &
BHARATI DANGRE, J.**

DATE : FEBRUARY 4, 2025

P.C.

1. In this petition, the petitioner, *inter alia*; has assailed the validity of the communication dated 21st December 2023 issued by the Assistant Registrar, Cooperative Societies, Niphad, Dist. Nashik by which the petitioner has been informed that he is not entitled to the benefit under Section 44A of the Maharashtra Cooperative Societies, Act, 1960 (**Act of 1960**).

2. The facts giving rise for filing of the petition, briefly stated that the petitioner is an agriculturist. The petitioner approached respondent No.4 - Godavari Vividh

Karyakari Sahakari Sanstha (hereinafter referred to as the **Cooperative Society**) for grant of a loan. The petitioner was sanctioned loan of Rs.4,94,300/-. The petitioner did not repay the amount of loan. Thereupon the proceedings under Section 101 of the Act of 1960 were initiated against the petitioner.

3. Thereupon the petitioner submitted a representation to the Cooperative Society seeking benefit under Section 44A of the Act of 1960 and for availing the OTS Scheme. However, the representation submitted by the petitioner failed to evoke any response. Thereupon, the petitioner approached this Court by filing a writ petition viz. writ petition No.10125 of 2023 (**Mr. Dattatray Kachru Aher Vs. The State of Maharashtra & Ors.**). A Division Bench of this Court by an order dated 21st August 2023 disposed of the said writ petition along with connected writ petitions with direction to the respondents to decide the said representation within a period of eight weeks.

4. In compliance of the aforesaid order dated 21st August 2023, by the impugned communication dated 21st December 2023, the representation submitted by the petitioner seeking benefit under Section 44A of the Act of 1960 has been rejected. Hence, this writ petition.

5. Learned Counsel for the petitioner submitted that the petitioner had not taken the loan from any Cooperative Agriculture and Rural Multipurpose Development Bank, therefore, the bar contained in the proviso to Section 44A of the Act of 1960 does not apply to the facts and circumstance of the

case. However, the Assistant Registrar, in cryptic and cavalier manner, has rejected the representation submitted by the petitioner and held that the petitioner is not entitled to the benefit under Section 44A of the Act of 1960.

6. We have considered the rival submissions made by both sides and perused the record.

7. Section 44A of the Act of 1960, which is relevant for the purpose of deciding the controversy involved in the instant petition, is extracted below for the facility of reference:

"44A Limit on interest in certain cases—

Notwithstanding anything contained in any agreement or any law for the time being in force, a society including a Co-operative Bank and a Co-operative Agriculture and Rural Multipurpose Development Bank shall not for any loan including rehabilitation loan but excluding long term loan for irrigation or agricultural development purposes or loan exceeding rupees ten thousand for non-agricultural or commercial purposes given by it to any member including a member society for a period not exceeding 15 years, whether the loan was given before or is given after the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1985, recover, in any manner whatsoever, on account of interest, a sum greater than the amount of the principal of the loan.

Provided *nothing in this section shall apply to a loan exceeding one lakh rupees given by Co-operative Agriculture and Rural Multipurpose Development Bank to any member."*

8. In view of the aforesaid, it is evident that Section 44A shall apply to the loan exceeding one lakh given by a Co-operative Agriculture and Rural Multipurpose Development Bank to any member. The petitioner's case does not fall within the proviso appended to Section 44A of the Act of 1960 as the petitioner has not availed loan from Co-operative Agriculture and Rural

Multipurpose Development Bank but availed loan from respondent No.4, a Cooperative Society. The aforesaid aspect of the matter has not been appreciated by the Assistant Registrar while dealing with the representation of the petitioner.

9. The impugned communication dated 21st December 2023 is cryptic and suffers from the vice of non application of mind therefore, it is quashed and set aside.

10. The matter is remanded back to the Assistant Registrar, Cooperative Societies, Niphad, Dist. Nashik to take a fresh decision in the light of the observations made in this matter, by a speaking order within a period of six weeks from today. Accordingly, the writ petition is disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)