

V/s.

WITH

WRIT PETITION NO.4923 OF 2025

V/s.

Rahamutalla Khamkar and Ors. ... Respondents

Mr. Rahul Arora, for the respondent no. 1

Ms. Savita Prabhune, AGP, for the respondent nos. 3 and 4 in WP/4921/2025.

CORAM : N.J. JAMADAR, J.

DATE : 11th AUGUST 2025

ORAL ORDER :

1. Heard the learned counsel for the parties.
2. Rule. Rule made returnable forthwith and, with the consent of the Counsel for the parties, heard finally.
3. The challenge in these petitions is to the orders dated 17th

January 2025 passed by the Divisional Joint Registrar whereby the Divisional Joint Registrar allowed applications, being Application Nos. 37 of 2023 and 02 of 2024 preferred by the respondent no. 2 seeking sanction to prosecute the petitioners under Section 148 of the Maharashtra Co-operative Societies Act, 1960, for having allegedly committed offences punishable under Section 146 (j), (p2) and (q) of the Maharashtra Co-operative Societies Act, 1960.

4. Mr. Patil, the learned counsel for the petitioners, submitted that the petitioners were not provided an effective opportunity of hearing. The applications were posted for hearing before the Divisional Joint Registrar on six dates, and on all those six consecutive dates the board was discharged, as the Joint Registrar was busy in administrative work. On 17th December 2024, when the authority took up the matter, the petitioners were not present. After hearing the submissions of the respondent no.1, the applications were closed for order, and the impugned order came to be passed on 7th January 2025. The petitioners had no effective opportunity of hearing.

5. Even otherwise, the petitioners have already complied with the requisitions to furnish documents, for the non-compliance of which the Petitioners are sought to be prosecuted, submitted Mr. Patil.

6. The learned Counsel for the Respondent No.1 resisted the submissions on behalf of the petitioners. Inviting the attention of the Court to the averments in Paras 6 and 7 of the petition an endeavour was made to draw home the point that there is an admission to the effect that on 17th December 2024 the petitioners were present before the competent authority.

7. I have perused the material on record.

8. Roznama of the proceedings reveals that on six consecutive scheduled dates of hearing, the board was discharged as the Competent Authority was busy with the administrative work. On 17th December 2024, the petitioners were evidently not present. Without delving into the question as to whether the absence of the petitioners on 17th December 2024 was for a justifiable cause, the fact remains that the petitioners were not heard by the Joint Registrar.

9. If viewed in the light of the manner in which hearing of the applications was conducted by the Joint Registrar, especially when on five earlier occasions the board was discharged, for the absence of the petitioners on 17th December 2024, the only effective date of hearing, the Joint Registrar ought not to have closed the matters for orders.

10. In the circumstances of the case, the petitioners deserve at least one more opportunity to appear before the Joint Registrar and put forth their defences.

11. For the aforesaid reasons, I am inclined to allow the petition and quash and set aside the impugned order and remit the matter back to the Joint Registrar for afresh determination after providing an effective opportunity of hearing to the parties, including the Petitioners.

12. Hence the following order:

- i. The petitions stand allowed.
- ii. The impugned orders stand quashed and set aside.
- iii. The application Nos. 37 of 2023 and 02 of 2024 stand remitted back to the file of the Joint Registrar for afresh determination.
- iv. The parties shall appear before the Joint Registrar on 25th August 2025.
- v. The Joint Registrar is requested to make an endeavour to hear and decide the Applications as expeditiously as possible, and, preferably, within a period of six weeks from the date of appearance of the parties.

vi. It is, hereby, clarified that this Court has not entered into the merits of the matter, and all contentions of all the parties are kept open for consideration by the Joint Registrar.

(N.J. JAMADAR, J)