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

WRIT PETITION NO.6045 OF 2025

The New Grain Dealers Service
Resource Coop. Society Limited & Anr. ... Petitioners

V/s.

The Minister for Cooperation,
Marketing & Textile Department
of State of Maharashtra & Ors. ... Respondents

Mr. Akhil Kupade i/by Mr. Prashant Bhavake for the
petitioner.

Mr. P.V. Nelson Rajan, AGP for the State.

Mr. Ajit Anekar with Ms. Priyanka Srivastava i/by Auris
Legal for respondent Nos.5, 7 and 8.

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CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 25, 2025

P.C.:

1. The petitioners are members of the Managing Committee and complainants in proceedings under Section 88 of the Maharashtra Cooperative Societies Act, 1960 (for short, "MCS Act"). Based on the procedure laid down in Rule 72 of the Maharashtra Cooperative Societies Rules, 1971 (for short, "MCS Rules"), the Authorized Officer initiated an inquiry. The Inquiry Officer submitted a report holding respondent Nos.5 to 9 personally liable. Being aggrieved, respondent Nos.5 to 9 preferred an appeal under Section 152 of the MCS Act. The Appellate Authority, by its order, set aside the findings of liability against

respondent Nos.5 to 9. The reasoning recorded was that the inquiry was conducted without affording oral hearing in the form of examination-in-chief and cross-examination of witnesses, without exhibiting the documents, and without adhering to principles of natural justice. The Appellate Authority observed that the procedure prescribed under the MCS Act had not been followed.

2. On careful consideration, it is necessary to refer to the true scope of Rule 72 of the MCS Rules. Rule 72 lays down a self-contained procedure to be followed by the Authorized Officer while holding an inquiry under Section 88 of the MCS Act. This Rule incorporates basic principles of natural justice, namely, giving notice to the person against whom liability is alleged, furnishing material relied upon, granting opportunity to submit explanation, and allowing participation in the inquiry. However, the Rule does not incorporate the strict provisions of the Indian Evidence Act, such as exhibiting of documents, formal proof by examination-in-chief, or elaborate cross-examination.

3. Proceedings under Section 88 of the MCS Act are not in the nature of a civil suit before a regular Court. They are in the nature of a quasi-judicial inquiry conducted by the Authorized Officer for determining whether loss has been caused to the society by acts of mismanagement or negligence and to fix liability on responsible persons. The purpose of such inquiry is to protect the interest of the cooperative society and its members.

4. In such inquiries, the strict provisions of the Code of Civil Procedure or the Indian Evidence Act do not apply. Rule 72 of the MCS Rules prescribes a special procedure for conducting the inquiry. This Rule requires that a person against whom action is proposed must be given notice of allegations, must be furnished with the material relied upon, and must be given a chance to explain his case. The requirement is to ensure compliance with the principles of natural justice.

5. Therefore, the correct test to be applied by the authority or by the appellate forum is not whether evidence has been formally proved by exhibiting documents or by recording examination-in-chief and cross-examination as in a civil trial, but whether the party concerned has been afforded a fair and reasonable opportunity to meet the allegations. If such opportunity is granted, the requirement of Rule 72 stands satisfied.

6. In the present case, the Appellate Authority has merely observed in a vague manner that oral hearing and examination of witnesses was not carried out in the form of a regular trial. Such an approach does not reflect the correct interpretation of Rule 72. What had to be determined was whether the procedure under Rule 72(4) to (6) was actually followed or not. Without recording a specific finding on this aspect, the appellate order cannot be sustained in law.

7. In the present case, the Appellate Authority has not recorded any specific finding as to which provision of Rule 72(4) to (6) has been breached. The finding is vague and general in nature.

Without pointing out concrete violation of Rule 72, the Appellate Authority has proceeded to set aside the liability. Such reasoning cannot be sustained in law, as it is settled that appellate orders must record clear and specific findings based on evidence and the procedure prescribed by statute. A mere general observation that procedure is not followed does not meet the test of judicial scrutiny.

8. For these reasons, the order of the Appellate Authority dated 22 December 2023, confirmed by the Revisional Authority on 10 March 2025, cannot stand the test of law. Both orders are liable to be quashed. The appeal deserves to be restored to the file of the Appellate Authority for fresh decision in accordance with law.

9. Accordingly, the writ petition is allowed in the following terms:

- a) The order dated 22 December 2023 passed by the Appellate Authority and confirmed by the Revisional Authority on 10 March 2025 are quashed and set aside.
- b) Appeal No.300 of 2022 is restored to the file of the Appellate Authority.
- c) The Appellate Authority shall decide the appeal on its own merits, in accordance with law, after considering the submissions of both parties.
- d) The parties shall appear before the Appellate Authority on 6 October 2025 at 10.30 a.m. without further notice.

e) The Appellate Authority shall dispose of the appeal within three months from the date of appearance of the parties.

10. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)