



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 4081 OF 2022

1. Anil Shriramji Nichat,
Age 42 years, Occu : Agriculturist,
R/o Shirajgaon Kasba, Tq. Chandur
Bazar,
District Amravati
2. Sanjay Purushottam Gurjar,
Age 54 years, Occ. Agriculturist
R/o Shirajgaon Kasba, Tq. Chandur
Bazar, District Amravati
3. Mohan Krushnarao Rajas,
Age 64 years, Occ.: Agriculrist
R/o Khed, Tq. Morshi, Dist. Amravati

...Petitioners

// VERSUS //

1. Cooperation Commissioner and
Registrar, Co-operative Society, State of
Maharashtra, New Central Building,
Pune, Tq. & District Pune
2. Divisional Joint Registrar,
Co-operative Socieity, Amravati,
Tq. & Dist. Amravati
3. District Deputy Registrar,
Co-operative Society, Amravati
Tq. and Dist. Amravati
4. Assistant Registrar,
Co-operative Socieity, Chandur
Railway, Tq. Chandur Rly, District
Amravati
5. Chief Executive Officer,
Janta Sahakari Bank Ltd.,

Reg No. ATI/B&K/175
Jaistambh Chauk, Near Panchashil
Talkies, Amravati, Tq. And District
Amravati

6. Avinash Yashwant Badukale,
Aged about 61 years, Occ. Agriculturist
R/o Near G.C.Tompe Collage,
Shirajgaon Band Road, Chandur Bazar,
Tq. Chandur Bazar, District Amravati
7. Prashant Ramkrushana Ladole,
Aged 54 years, Occ. Agriculturist
R/o Shirajgaon Kasba, Tq. Chandur
Bazar, District Amravati
8. Subhash Pundlik Dhule,
Aged about 67 years, Occ. Agriculturist
R/o Near Sai Mandir, Sai Nagar,
Amravati Tq. And Dist. Amravati
9. Sudhir Bhimrao Bhele
Aged 46 years, Occ. Agriculturist
R/o Malipura, Morshi, Tq. Morshi,
District Amravati
10. Prakash Ramchandra Gurjar
Aged 56 years, Occ. Agriculturist
R/o Shirajgaon Kasba, Tq. Chandur
Bazar, District Amravati
11. Vilas Wasudeorao Dakare,
Aged 59 years, Occ. Agriculturist
R/o Mahirabpura, Achalpur, Tq.
Achalpur, District Amravati
12. Anil Pandurangji Sune,
Aged 64 years, Occ. Agriculturist
R/o Shyam Nagar, Near Maltekadi,
Amravati, Tq. & District Amravati
13. Arun Pandharinath Ghotkar,
Aged 68 years, Occ. Agriculrist

- R/o Peth Mangaruli road, Jarud, Tq.
Warudh, Dist. Amravati
14. Dilip Narayan Bhopale
Aged 64 years, Occ. Agriculturst
R/o Pandhari Khanampur, Tq.
Anjangaon Surji, District Amravati
 15. Dipak Ambadasrao Ingle,
Aged 59 years, Occ. Agriculturst
R/o Tuljapur Gadhi, Tq. Chandur
Bazar, District Amravati
 16. Wamanrao Narayanrao Ghurde
Aged 64 years, Occ. Agriculturst
R/o Ghurde Plot, Near Girls Hostel,
Opp. Gole Kirana, Gadge Nagar,
Amravati, Tq. And Dist. Amravati
 17. Dr. Surekhatai Vijayrao Dabhade
Aged 59 years, Occ. Household R/o
Shirajgaon Kasba, Tq. Chandur Bazar,
District Amravati
 18. Sau. Swati Kiranrao Ambadkar,
Aged 49 years, Occ. Household
R/o Old Town, Badnera, Tq. & Dist.
Amravati
 19. Appasaheb Pundalikrao Bobade
Aged 69 years, Occ. Agriculturist
R/o Alam, 11, Jalaram Nagar, Near
Shankar Nagar, Rajapeth, Amravati
444 601
 20. Ramesh Marotrao Sawwalakhe
Aged 69 years, Occ. Agriculturist
R/o 26 Narendra Colony, Rukhamini
Nagar, near Sudarshan Building,
Farshistop, Amravati
 21. Kesharao Deorao Nichat
Aged 68 years, Occ. Agriculturst

R/o Opp. Mangalam Sadi Center,
Jaistambh Chowk, Amravati

22. Prabhakar Shravanji Shirsat
Aged 67 years, Occ. Agriculturist
R/o Asmita, SBI Colony, amravati, Tq.
And Dist. Amravati

23. Rahul Sureshrao Banobakode
Aged 50 years, Occ. Agriculturist
R/o Chhangani Nagar, Amravati
Tq. & Dist. Amravati

24 Dharmendra Dnyaneshwar Yavale
Aged 50 years, Occ. Agriculturist,
R/o Dhotarkheda, Tq. Achalpur,
District Amravati.

... Respondents

Shri Nilesh A.Gawande, Advocate for the petitioners.

Shri A.S.Fulzele, AGP for the respondents/State.

Shri S.M.Vaishnav, Advocate for the respondent nos. 5 to 25.

**CORAM : SMT. M.S.JAWALKAR &
PRAVIN S. PATIL, JJ.**

DATED : 30th JUNE, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Heard. **Rule.** Rule made returnable forthwith. Heard finally
by consent of the parties.

2. By this petition, the petitioners are seeking directions against
the respondent no.1-Commissioner to conduct the inquiry under Section
88 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter
referred as 'Act, 1960') and to take action under Section 78 of the Act,

1960 against the respondent nos. 6 to 24, who are the Directors of the respondent no.5 Bank.

3. In the present petition, the grievance raised by the petitioners is that the respondent no.1 - Commissioner failed to consider the specific findings recorded by the Inquiry Officer in his report under Section 83 of the Act, 1960. Learned counsel for the petitioners has pointed out that as per the findings recorded by the Inquiry Officer particularly in respect of written off bad debts and loss, same is not recorded in consonance with Rule 49 of the Maharashtra Cooperative Societies Rules, 1961. He further stated that Inquiry Officer has recorded the findings in respect of purchased of plot by the Bank at Shirajgaonkasba bearing Nazul Sheet No. 1155 admeasuring 2339.22 square feet was approximately as per the Government valuation was Rs. 1,56,528/-. However, the respondent-bank get it revalued initially from Isha Construction on 10th July, 2017 and on next day i.e. 11th July, 2017 from Paranjape Engineering. Then within a week the said plot has been purchased for Rs.17,50,000/-. He further pointed out that in a recruitment conducted by the respondent-Bank, the near and dears had been given back door entry which is

contrary to the provisions of law and the guidelines laid down by the respondent no.1.

Hence, considering this specific findings of the Inquiry Officer, it is expected from the respondent no.1 to take immediate action by invoking the powers under Section 88 of the Act, 1960. It is pointed out that inquiry report submitted by the Inquiry Officer to the respondent no.1 is of dated 14th May, 2019. However, for a considerable period no decision was taken by the respondent no.1 and therefore petitioner constrained to approach before this Court to invoke extra ordinary jurisdiction and thereby seeks directions to the respondent no.1-Commissioner to conduct inquiry under Section 88 of the Act, 1960.

4. Learned counsel appearing for the respondents pointed out that during the pendency of the present petition, the respondent no.1 had taken the decision on the representation of the petitioners on 19th April, 2023. According to the said decision, the respondent no.1 found that there is no financial loss caused to the Bank-respondent and no any serious irregularity is noted down in the report and hence the representation/application of the petitioner has been rejected. According

to them, as the respondent no.1 has taken the decision in the matter on 19th April, 2023, no cause of action survives in the matter and accordingly petition deserves to be disposed of as infructuous.

5. After hearing both the parties in the matter, we have perused the record.

6. In the present matter first affidavit came to be filed by the respondent no.2 on 24th January, 2023. In the said affidavit the respondent no.2 failed to point out any basis to form an opinion as to how financial loss is not caused to the respondent no.5-Bank. As such, this Court by an order dated 20th March, 2024 granted some time to the respondent no.1 to file detail affidavit explaining his decision of not to initiate the proceedings for recovery of the amount as reflected in the inquiry under Section 83 of the Act, 1960.

7. It seems that when this Court seeks explanation from the respondent no.1, the order dated 19th April, 2023 came to be passed in the matter and then additional affidavit came to be filed on 1st April, 2024 to demonstrate that there is no financial loss caused to the bank nor there

has been any irregularity in the purchase of the plot nor any illegality in the recruitment of the employees.

8. It is pertinent to note that after filing of the affidavit, this matter was heard on 12th July, 2024 and following order was passed in the present matter.

“1. In an enquiry conducted under Section 83 of the Maharashtra Co-operative Societies Act, 1960 (for short, the Act of 1960) in the matter of illegally debts being written-off by respondent No.5-Bank, the Additional Commissioner, Co-operation has informed the petitioners about absence of any illegality.

2. The fact remains that the report under Section 83 of the Act of 1960 dated 14/05/2019 in clear terms depicts the decision of writing-off the debt that too without considering whether the amount of interest is paid or not.

3. As such it appears that the Additional Commissioner, Co-operation in mechanical manner has proceeded to approve the same and further recorded satisfaction for not initiating action under Section 88 of the Act of 1960.

4. This Court having noticed the aforesaid approach on the part of the Cooperation Commissioner, vide reasoned order dated 20/03/2024 directed the Cooperation Commissioner, to file affidavit explaining the same.

5. It appears that instead of the Cooperation Commissioner filing an affidavit, it is Additional Commissioner who has taken an illegal decision and has filed an affidavit justifying the same.

6. We fail to understand why the Cooperation Commissioner has not complied with the orders of this Court though he was directed to file affidavit in the matter.

7. That being so, we are constrained to observe that the conduct of the Cooperation Commissioner is not in accordance with the order of this Court dated 20/03/2024 which could have warranted initiation of contempt proceedings against him.

8. However, in view of submission made by Ms N. P. Mehta, learned Additional Government Pleader, we grant time of two weeks to the Cooperation Commissioner to file his affidavit failing which, this Court will be constrained to initiate contempt proceedings against the said officer and will direct the Chief Secretary to file an affidavit.

9. Stand over to 29/07/2024.

10. The aforesaid order is passed keeping in mind the fact that the respondent-Bank has written-off the debt in 205 cases amounting to Rs.1,21,91,369/- thereby compromising the trust of the shareholders of the Co-operative Bank. The aforesaid fact can be inferred from the report submitted under Section 83 of the Act of 1960 by the District Deputy Registrar, Co-operative Society, Amravati.”

9. As such, it is clear that this Court has noted that the affidavit has been filed by Additional Commissioner and not by Commissioner as per the directions of this Court. So also, the findings recorded in the order clearly shows that respondent no.1 failed to consider the report under Section 83 of the Act, 1960 in a proper manner.

10. It is noteworthy that though in the order dated 19th April, 2023 nowhere disclosed application of mind on the specific issues which are

subject matter of the petition. But while filing affidavit dated 23rd July, 2024, the respondent no.1 made improvement in his submission and first time tried to elaborate the reasons to support his order.

11. In the present matter, the perusal of issue nos. 2, 3, 4 and 6 of the inquiry report, it is clear from the record that there were financial irregularities, loss caused to the bank, irregularities in recruitment exercise, therefore, it was necessary for the respondent no.1 to apply his judicial mind while taking decision in the matter on 19th April, 2023. However, *prima facie* it seems that there is no application of judicial mind while passing the order dated 19th April, 2023.

12. From the record, it is undisputed fact that report of Inquiry Officer was submitted to the respondent no.1 on 14th May, 2019. However, for a considerable period no decision was taken by the respondent no.1 on said inquiry report. Hence, petitioners constrained to file the present petition and as per the record same is shown to be filed on 7th July, 2022. As such for period of three years, no decision was taken by the respondent no.1. However, when this Court issued notices, initially by filing affidavit dated 24th January, 2023, it is only stated by

following due procedure of law, inquiry under Section 83 of the Act, 1960 has been conducted and the report has been submitted to the respondent no.1 by communication dated 14th May, 2019. However, when this Court by order dated 20th March, 2024 recorded in the order that respondent no.2 failed to explain the basis for forming an opinion by respondent no.1 of not causing the financial loss to the respondent no.5-Bank and granted three weeks time to the respondent no.1 to file his affidavit explaining his decision of not to initiate the proceeding for recovery of the amount as reflected in the inquiry under Section 83 of the Act, 1960, it seems that respondent no.1 awoken from his deep slumber and immediately took decision in the matter and hastily by cryptic order recorded that there is no financial irregularity found by him in the report which according to us is nothing but only to justify the earlier affidavit filed in the matter.

13. It is necessary to point out that respondent no.1 being a responsible officer, is expected to follow judicial discipline. Admittedly, the petitioners by way of present petition seeks directions against him to conduct inquiry under Section 88 of the Act, 1960 for the

misappropriation and other allegations which is corroborated from the inquiry report submitted by the inquiry officer on 19th May, 2019. Accordingly, matter was/is seized in the hands of this Court. Hence, in such circumstances, it is expected from the respondent no.1 to at least inform the Court that he is willing to take decision in the matter as contemplated under Section 88 of the Act, 1960. However, it seems that only to get present matter infructuous, respondent no.1 overhastly took the decision dated 19th April, 2023.

14. In the circumstances, we are of the considered opinion that the decision dated 19th April, 2023, *prima facie* shows non application of mind as no cogent reasons are recorded as to how the findings recorded by the Inquiry Officer, particularly issue nos. 2, 3, 4 and 6 are not causing any financial loss and irregularity on the part of the respondent no.5-bank.

15. Therefore, considering overall factual position, it will be appropriate to direct the respondent no.1-Commissioner by apply his judicial mind and take fresh decision on the report received to his office

on 14th May, 2019 under Section 83 of the Act, 1960. Hence, for aforesaid reasons, we proceed to pass the following order.

i. The order dated 19th April, 2023 passed by the respondent no.1 - Cooperation Commissioner and Registrar, Pune is hereby quashed and set aside;

ii. The respondent no.1- Cooperation Commissioner and Registrar, Pune is hereby directed to apply his mind afresh on the inquiry report received to his office on 14th May, 2019 and according to decide the firm opinion as to whether any action can be taken by the respondent no.5 in the facts and circumstances of the case.

iii. It is further made clear that entire exercise of deciding the matter under Section 88 of the Act, 1960 should be done by the respondent no.1 - Cooperation Commissioner and Registrar, Pune within a period of three months from the date of receipt of this order.

iv. It is also made clear that all the issues raised by the petitioners as well as respondents in the petition are kept open and same can be dealt with by the respondent no.1 - Cooperation Commissioner and Registrar,

Pune by granting opportunity if so permissible under the provisions of law.

In above terms, the petition is disposed of. No order as to costs.

[PRAVIN S. PATIL, J.]

[SMT. M.S.JAWALKAR, J.]