



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

WRIT PETITION NO.5576 OF 2019

PETITIONER
ORIGINAL APPELANT

Pawan Vinkar Sahakari Sanstha Ltd.
Pawani Taluka Pawani Distt. Bhandara
through its President

...VERSUS...

RESPONDENTS
(Passing Authority)
ORIGINAL RESPONDENT

1. Assistant Director Handloom and Joint Registrar Cooperative Societies Nagpur,
2. The Divisional Joint Registrar Cooperative Societies Nagpur,
3. Assistant Registrar, Cooperative Societies Pawani Taluka Pawani District Bhandara

Ms. S.V. Jaiswal, Advocate for Petitioner.
Mr. H.R. Dhumale, AGP for Respondent/State.

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 10/11/2025

ORAL JUDGMENT :

1. Heard. Rule. Rule made returnable forthwith. The petition is heard finally with the consent of the learned counsel for the respective parties at the stage of admission.

2

2. The present petition is directed against the orders dated 18.06.2019 passed by the Assistant Director Handloom and Joint Registrar Co-operative Societies, Nagpur in Revision No.514/2016 and interim order dated 28.09.2015 and final order dated 31.12.2015 passed by the learned Assistant Registrar Co-operative Societies Dist. Bhandara.

3. Learned counsel for the petitioner submits that the society was registered in the year 1956 and has been carrying out its activities as per the registered bye-laws. The society received a show-cause notice issued by the Assistant Registrar Co-operative Societies, Pawani under the Section 102 of Maharashtra Co-operative Societies Act, 1960 (for short "Act, 1960") alleging that the functioning of the society has ceased. Without considering the reply filed by the petitioner, an interim order came to be passed on 28.09.2015.

4. The petitioner further submits that after passing of the interim order, notices were again issued by the Assistant Registrar, asking the petitioner to file its reply. Pursuant thereto, the petitioner filed detailed reply alongwith the audit report and the other records to point out that the society is still functioning, but without considering

the same, the final order under Section 102 of the Act came to be passed. The said order was assailed by the petitioner by filing revision, but the revisional authority without considering the documents on record, confirmed the order under Section 102 of the Act, 1960. He further submits that the documents on record clearly demonstrate that the society is functioning, therefore, the authorities ought not to have passed the said orders.

5. Per contra, learned counsel for the respondents submit that an enquiry was conducted and upon perusal of the entire record, the authorities found that the society was not functioning. He further pointed out that the revisional authority had directed the concerned authority to submit a report and though the report indicated that the society is carrying out some activities but those activities were not in accordance with the bye-laws of the society. Therefore, they contend that the order passed by the Assistant Registrar Co-operative Societies which was confirmed by the Divisional Joint Registrar Co-operative Societies, Nagpur is legal and proper.

6. I have gone through the order passed by the authorities and the material placed on the record alongwith the writ petition.

7. To consider this controversy, it is necessary to refer Section 102 of the Act, 1960, which contemplates the procedure to be followed before passing the final order under Section 102 of the Act, 1960 which is reproduced as follows :-

“102. Winding up.—

(1) If the Registrar,—

(a) after an inquiry has been held under section 83 or an inspection has been made under section 84 or 89A or on the report of the auditor auditing the accounts of the society, or

(b) on receipt of an application made upon a resolution carried by three-fourth of the members of a society present at a special general meeting called for the purpose, or

(c) of his own motion, in the case of a society which—

(i) has not commenced working, or

(ii) has ceased working, or

(iii) possesses shares or member's deposits not exceeding five hundred rupees, or

(iv) has ceased to comply with any conditions as to registration and management in this Act or the rules or the by-laws, is of the opinion that a society ought to be wound-up, he may issue an interim order directing it to be wound-up.

(2) A copy of such order made under sub-section (1) shall be communicated, in the prescribed manner, to the society calling upon it to submit its explanation to the Registrar within a month from the date of the issue of such order, and the Registrar, on giving an opportunity to the society and to the creditors of the society, if any, of being heard, may issue a final order, vacating or confirming the interim order.”

Under this provision, the authority must first pass an interim order, call upon the society to submit its reply, and then consider such reply before passing final order. In the present case, it is an undisputed fact that after the show-cause notice was issued, the petitioner had replied the same contending that the society has not

stopped its functioning. Despite the submission of the reply alongwith the audit report and other records which confirmed that the society is functioning, an interim order came to be passed.

8. Further it has come on the record that while considering the revision, the Revisional Authority directed to conduct an enquiry and pursuant thereto an enquiry report was submitted on 19.03.2019, which revealed that the society is manufacturing silk and also supplying the same to its members. Even on the basis of entries made on the register by the members, it reveals that the society was functioning. However, the Revisional Authority only on the ground that the society was not carrying out its activities as per the bye-laws and was manufacturing silk which was not the object of the society, dismissed the revision filed by the petitioner.

9. Here, it is not the case that the society was not functioning, but there was some deviation from the bye-laws of the society. Therefore, once the authority has found that the society is functioning, action under Section 102 of the Act, 1960 cannot be taken to wind-up the society.

10. In view of the above discussion, action taken under Section 102 of the Act, 1960 cannot be sustained in the eyes of law.

11. Hence, I pass the following Order :-

ORDER

A) The Writ Petition No.5576/2019 is **allowed**.

B) Order dated 18.06.2019 passed by the Assistant Director Handloom and Joint Registrar Co-operative Societies, Nagpur in Revision No.514/2016 is quashed and set-aside.

C) Interim Order dated 28.09.2015 and Final Order dated 31.12.2015 passed by the learned Assistant Registrar Co-operative Societies Dist. Bhandara are quashed and set-aside.

Rule is made absolute in above terms.

(SIDDHESHWAR S. THOMBRE, J.)