



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

WRIT PETITION NO.5823/2024

- PETITIONERS** :
1. Janata Central Wholesale and Retail Cooperative Consumer Stores Ltd. through Manager Devidas Narayan Saphale, r/o Pandit Nehru Marg, Opp. State Bank of India, Dist. Akola – 444001.
 2. Wardha District Cooperative Wholesale and Retail Consumer Society through Manager Mohan R. Gourshettiwar, Near Old RTO Office, Pratap Nagar, Dist. Wardha.
 3. Anant Madhukarrao Bhuibhar, aged about 60 years, Occ. Practitioner, R/o Old Radha Kisan Plot, Dist. Akola – 444001.
 4. Vijay Shamrao Mule, aged about 70 years, Occ. Retired, R/o Near Old RTO Office, Pratap Nagar, Dist. Wardha.

...VERSUS...

- RESPONDENTS** :
1. Divisional Joint Registrar, Cooperative Societies, Nagpur Division, Nagpur.
 2. District Deputy Registrar, Cooperative Societies, Nagpur, Dist. Nagpur, Plot No.8, Sahakar Sadan, Hindustan Colony, Amravati Road, Nagpur.
 3. Vishal Grahak Sahakari Sanstha Maryadit, Nagpur, Regn. No.101, Gandhi Putla, Ganeshpeth Road, Mahal, Nagpur, Tq. And Dist. Nagpur, through its Authorized Officer.

4. Nagpur District Central Cooperative Consumers Wholesale and Retail Stores Limited, Nagpur, Regn. No.146, Sahakar Mandir, Tilak Road, Mahal, Nagpur, Tq. And Dist. Nagpur, through its Authorized Officer.
5. Shri Pilaji Narayan Dhapodkar, aged adult, Occ. Nil, R/o Gandhi Putla, Ganeshpeth Road, Mahal, Nagpur, Tq. And Dist. Nagpur.
6. Shri Vijay Ramaji Kapse, aged adult, Occ. Nil, R/o Sahakar Mandir, Tilak Road, Mahal, Nagpur, Tq. And Dist. Nagpur.
7. Assistant Registrar, Cooperative Societies, Nagpur.

Mr. A.M. Ghare, Advocate for petitioners
Mr. D.V. Chauhan, Senior Advocate/G.P., i/b A.D. Chaudhari, C.J. Dhruv, Advocates and
Ms Prachi Joshi, AGP for respondent Nos.1, 2 and 7
Mr. R.S. Parsodkar, Advocate for respondent Nos.3 to 6

CORAM : SACHIN S. DESHMUKH, J.

Date of reserving the judgment : 11/08/2025

Date of pronouncing the judgment : 04/09/2025

J U D G M E N T :

1. Heard. Rule. Rule made returnable forthwith. By consent of the parties, the petition is heard finally at the stage of admission.

2. The petitioners raise an exception to the order dated 06/09/2024 rendered by the Divisional Joint Registrar Cooperative Societies, Nagpur in Appeal Nos.14/2020, 15/2020, 56/2021, 57/2021,

53/2021, 54/2021, 55/2021 and 58/2021, by which the application seeking intervention of the petitioners as well as objection to condone the delay on the part of the respondent Nos.4 and 5 in presenting appeal herein has been rejected.

3. The petitioners are the Societies registered under the Maharashtra Co-operative Societies Act, 1960 (for short hereinafter referred to as “Act of 1960”), are aggrieved by the order rendered in appeal under Section 152 of the Act of 1960 by the Divisional Joint Registrar Cooperative Societies, Nagpur. There is a chequered history of litigation since the respondent Nos.5 and 6 initiated the proceedings before the respondents-authorities primarily in the wake of preparation of voters’ list, wherein their names were included, however, in the light of order of de-registration of the societies, eventually names were deleted from the provisional voters’ list. The said deletion is subjected to challenge in an appeal under Section 152 of the Act of 1960. The issue is being taken up before the cooperative authorities as well as this Court on successive occasions. Necessary reference can be made to the orders of this Court in Writ Petition No.3717/2022, wherein initially the order dated 27/09/2022 was passed, directing the parties to maintain status quo, however, finally the petition came to be disposed of on 31/01/2024.

4. On account of certain developments in relation to the election of the Societies in ignorance of order of *status quo*, therefore Contempt Petition No.285/2022 was presented and therefore, Writ Petition No.3717/2022 was disposed of on 31/01/2024. The order in writ petition reads as under :

“i) The Writ Petition is partly allowed.

ii) The impugned order dated 21/06/2022, passed by the respondent No.1-Hon’ble Minister for Cooperation, Marketing and Textile Division in Revision Applications Nos.222 of 2022 and 222 of 2022, is hereby quashed and set aside.

ii-a) The orders passed by the Divisional Joint Registrar, Co-operative Societies, Nagpur dated 20/01/2022, 24/01/2022 and 097/04/2022, are hereby quashed and set aside.

iii) The matter is remanded back to the Divisional Joint Registrar, Cooperative Societies, Nagpur for deciding the same afresh.

iv) The parties shall appear before the Divisional Joint Registrar, Cooperative Societies, Nagpur on 09/02/2024 at 11:00 a.m.

v) The Divisional Joint Registrar shall decide the matter, after hearing both the parties, within four months from the date of appearance of the parties.”

5. Apart from the orders of this Court in Writ Petition No.3717/2022, the petitioners herein were again before this Court by presenting Writ Petition No.2209/2024, wherein a statement was made that an opportunity of hearing will be granted to the petitioner before

deciding the appeal. In light of the said statement, the writ petition came to be disposed of. The order dated 26/06/2024 passed by this Court reads as under :

“1. Learned AGP, on instructions, submits that int erms of clause (v) of paragraph No.25 of the order dated 31/1/2024 passed by this Court in Writ Petition No.3717 of 2022, an opportunity of hearing will be granted to the petitioners before deciding the appeal.

2. In that view of the matter, I am not inclined to entertain the present petition at this stage. It would be open to the petitioners to challenge the order impugned after final order is passed in the appeal and if such order affects the rights of the competitors.

3. The petition is disposed of in the aforesaid terms.

4. Pending Applications(s) if any, are disposed of.”

6. In the light of the observations of this Court in the aforestated orders, it was incumbent upon the Divisional Joint Registrar Cooperative Societies, Nagpur to permit the petitioners herein to participate in the matter and decide the appeal on merits after hearing the litigating sides, more particularly in the wake of the observations rendered by this Court in the order dated 31/01/2024 in Writ Petition No.3717/2024.

7. In the aforestated backdrop, it is the contention of Mr. Ghare, learned Counsel for the petitioners that taking into consideration the aforestated observations, when the issue was directed

to be decided by the Divisional Joint Registrar in the appeal afresh and decide the same after taking into consideration the submissions of the petitioners, the respondent No.1, has proceeded to pass an order dated 06/09/2024, by which the application of the petitioners for intervention in the appeal before the Divisional Joint Registrar for suitable orders, is rejected and allowed the application seeking condonation of delay.

8. It was further submitted that after the appointment of liquidator is issued then the representation to the Manager or authorized officer cannot be permitted and essentially the proceedings should be presented by and on behalf of the liquidator only. In the process, a reference was made to the orders of this Court, which were rendered in Writ Petition No.3717/2022 dated 31/01/2024 vis-a-vis in Writ Petition No.737/2022 and 738/2022, those were presented at the instance of the present petitioners against the order of rejection for the intervention. As such, the opportunity of the petitioners cannot be taken a way to put forth their say as has been observed in the order in Writ Petition No.3717/2022 vis-a-vis the order in Writ Petition No.2209/2024 and further erred in condoning unexplained delay, on the part of respondent Nos.4 to 7 herein while presenting appeals.

9. Per contra, Mr. Chauhan, learned Senior Counsel and Government Pleader for the respondent Nos.1, 2 and 7 and Mr. Parsodkar, learned Counsel for the respondent Nos.3 to 6 have

supported the order submitting that the petitioners herein have no locus to participate in the proceedings and reliance is placed on the order of this Court in case of *Mateshwari Agro Chemicals Through its Partner Vs. State of Maharashtra, Through its Additional Chief Secretary, Co-operation and Marketing Department and others, 2023 SCC OnLine Bom 2454*.

10. Having heard the respective Counsel for litigation sides, considering the fact that this Court in Writ Petition No.3717/2022, more particularly Clause -V of the order dated 31/01/2024, has observed that the matters ought to have been remanded to the Divisional Joint Registrar to consider the appeal afresh and decide the same after hearing both the parties. Coupled with the same, the order of this Court in Writ Petition No.2209/2024, wherein a statement was made on behalf of the learned Assistant Government Pleader that an opportunity of hearing will be granted to the petitioners before deciding the appeal. Making serious departure with statement in Writ Petition No.2209/2024 and the observations of this Court in the order in Writ Petition No.3717/2024, seeking intervention by the petitioners in an appeal presented by the respondent Nos.4 and 5 has been rejected.

11. The unsustainability of the said order is surfacing since the opportunity which ought to have been extended in favour of petitioners ensuring participation in light of the observations of this Court in Writ

Petition No.3717/2022 vis-a-vis the statement in Writ Petition No.2209/2024, could not have been overlooked. It was not open for the Divisional Joint Registrar to act contrary to the directions and observations of this Court, pursuant to which in an unequivocal term an opportunity of hearing is required to be extended to the petitioners herein before deciding the pending appeals on merit as directed by this Court.

12. Objection raised by Mr. Parsodkar, learned Counsel for the respondent Nos.4 to 7 that the petitioners do not have any locus, deserves no consideration for the solitary reason that substantive appeal is pending before the Divisional Joint Registrar Cooperative Societies and the petitioners herein are permitted under the orders of this Court to participate in appeal before the Divisional Joint Registrar, same does not require any reiteration. Nonetheless, The respondent Nos.4 to 7 are aware of participation of petitioners in the litigation, those are referred hereinabove.

13. Even otherwise, the appeal presented by the respondent Nos.4 to 7 are awaiting its adjudication on merit and these respondents are aware of petitioners' participation, therefore, petitioners' application for intervention deserves to be allowed. The participation of the petitioners would rather facilitate the Appellate Authority to decide the appeal on merits.

14. So far as challenge to the order of Divisional Joint Registrar allowing application presented by the respondent nos.4 to 7 by which delay is condoned deserves no consideration, as appeal necessarily will have to be decided on merit and petitioners are permitted to participate in a substantive appeal. Therefore, objection of the petitioners to order allowing application seeking condition of delay does not deserve any consideration.

15. Nevertheless, where technicalities are pitted against substantial justice, justice shall prevail. As such, the reliance placed by by the learned Senior Counsel and Government Pleader for the respondent Nos.1, 2 and 7 on the judgment of *Mateshwari Agro Chemicals* (supra) is not of any assistance to the respondents, more particularly in the wake of orders of this Court in Writ Petition Nos.3717/2022 and 2209/2024. Therefore, it would appropriate to direct that appeals presented by respondent Nos.4 to 7 are to be decided on its own merit allowing petitioners to participate in the same. Therefore, the order condoning delay in presenting appeal deserves to be confirmed. Whereas order rejecting application seeking intervention of petitioners is set aside by allowing the said application as prayed.

16. In the light of the aforesaid facts the writ petition is partly allowed. The intervention application of the petitioners stands allowed and the order dated 06/09/2024 deserves to be quashed and set side

permitting the participation of the petitioners in appeals pending before Divisional Joint Registrar. Needless to state that this Court has not considered the merits of the pending appeal. The appellate authority shall decide the appeals on its own merits without being influenced by the observations of this Court made hereinabove. Rule is made absolute in the aforesaid terms. No order as to costs.

17. Needless to state that interim orders shall stand vacated.

(SACHIN S. DESHMUKH, J.)

Wadkar