



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 638 of 2025

[Sunil Motiramji Ingle and anr. ..vs.. District Deputy Registrar,
Co-operative Society, Akola and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. A. Gawande, Advocate for the petitioners
Mr. S. B. Bissa, AGP for respondent nos. 1 and 2
Mr. V. N. Morande, Advocate for respondent no. 3
Mr. R. L. Khapre, Senior Advocate assisted by Mr. Ram Karode, Advocate
for respondent nos. 4 to 13

CORAM : ANIL L. PANSARE J.

DATED : 12-02-2025

Heard.

2. While issuing notice on 5-2-2025, following order was passed.

“Heard.

2. Petitioners have been removed from the post of Member of Managing Committee of respondent No.3 – Agriculture Produce Market Committee, Telhara, District Akola by the impugned order passed under Section 45 of the Maharashtra Agriculture Produce Marketing (Development and Regulations) Act, 1963, by respondent No.1 – District Deputy Registrar.

3. It appears that the District Deputy Registrar, has relied upon the report dated 07.01.2025 submitted by respondent No.2 – Assistant Registrar. This report was challenged by the petitioners before the Divisional Joint Registrar by filing revision under Section 43 of the Act of 1963. Despite such status, respondent No.1 has passed the impugned order, without giving an opportunity of hearing to the petitioners, on the ground that the Divisional Joint Registrar has not stayed the report submitted by Assistant Registrar.

4. Issue notice before admission to the respondents, returnable in four weeks.

5. *Ms K. P. Marpakwar, learned A.G.P waives service of notice for respondent Nos.1 and 2 – State.*

6. *In the meantime, there shall be ad interim relief in terms of prayer clause (b), which reads thus :*

“(b) Grant ad-interim stay to the effect and execution of the impugned order dated 30.01.2025 passed by respondent no.1 District Deputy Registrar, Co-operative Societies, Akola vide Annexure-K during the pendency of this petition by allowing the petitioners to work as a Chairman and Deputy Chairman of respondent no.3 Agriculture Produce Market Committee, Telhara, Tq. Telhara, Dist. Akola.”

3. As could be seen, respondent no. 1 – District Deputy Registrar relied upon the report dated 7-1-2025 submitted by respondent no. 2 – Assistant Registrar. This report is admittedly a subject matter of challenge before the Divisional Joint Registrar in the revision filed by the petitioners under Section 43 of the Maharashtra Agriculture Produce Marketing (Development and Regulation) Act, 1963 (for short ‘the Act of 1963’). That apart, respondent no. 1 has passed impugned order without giving an opportunity of hearing to the petitioners.

4. Learned counsel for the petitioners has invited my attention to the application filed by the petitioners on 28-1-2025, the date, when the matter was fixed before respondent no. 1 for hearing, requesting time on the ground that the report submitted by respondent no. 2 has been challenged before the Divisional Joint Registrar. This application dated 28-1-2025 has been taken note of by the respondent no. 1. However, for the reasons best known to him, on 30-1-2025, he proceeded to pass the impugned order *inter alia* on the ground that there is no stay to the said report. Accordingly, the respondent no. 1 has removed the petitioners

as Members of the Agriculture Produce Market Committee, Telhara.

5. To my mind, if the respondent no. 1 was inclined to rely upon the report submitted by respondent no. 2, he ought to have waited for the decision in the revision filed by the petitioners challenging the said report. Merely because the Divisional Joint Registrar had not stayed the report, will not be reason to enable the respondent no. 1 to rely upon the said report. The respondent no. 1 must be mindful to the fact that if the report is set aside by the Divisional Joint Registrar, his finding would stand vitiated. In the circumstances, when the higher authority was seized of the matter, the normal rule is that the authority below should keep its hands away and ought not to finally decide the proceeding which has far reaching effect of removal from the Committee.

6. As such, Mr. R. L. Khapre, learned Senior Counsel for respondent nos. 4 to 13 argued that revision itself is not maintainable because the report ought to be challenged before the respondent no. 1 and not before the Divisional Joint Registrar. This argument cannot be accepted because it would only amount to adding reasons to justify the impugned order. It is so because respondent no. 1, in the impugned order, does not say, as could not say, that the revision is not maintainable and/or the report submitted by respondent no. 2 ought to be challenged before him because, whether the revision is maintainable or not is a matter that should be left to be decided by the Divisional Joint Registrar. The arguments, so advanced, therefore, is rejected.

7. Mr. Khapre then has invited my attention to the communication dated 3-2-2025 made by Block Development Officer, Panchayat Samitee, Telhara addressed to respondent

no. 5 stating therein that on 22-2-2024, the managing body of Gram Panchayat, Hiwarkhed, Taluka Telhara, District Akola has been dissolved on account of conversion of Gram Panchayat into Municipal Council and because of such conversion, the petitioner no. 1 is no more Member of Gram Panchayat, Hiwarkhed.

8. Mr. Khapre, learned Senior Counsel submits that the moment, the petitioner no. 1 ceased to be Member of Gram Panchayat, he would cease to be Member of the Agriculture Produce Market Committee because he was elected from gram panchayat constituency. This fact has been suppressed by the petitioner no. 1 before the authority below as also this Court.

9. I have, therefore, enquired with the counsel appearing for the petitioners, who, on instructions of petitioner no. 1, who is present in the Court, made an attempt to dilute the blame of concealing the fact, by contending that the petitioner no. 1 had contested the election as an agriculturist and is independent of being elected as member of gram panchayat. As such, the petitioner no. 1 conceded that he was elected from the constituency of the elected members of gram panchayat, however, he continued to argue that he, being agriculturist, he can still continue to be Member of Agriculture Produce Market Committee.

10. The argument and the stand taken by petitioner no. 1 is deprecable. Mr. Khapre has rightly argued by referring to Section 13 of the Act of 1963 that the Market Committee consists of fifteen agriculturists, of which eleven are elected by the members of the Managing Committees of the Agricultural Credit Societies and Multi-Purpose Co-operative Societies and four are elected by the members of village panchayats functioning in the market area. Petitioner no. 1 is amongst

these four and is aware of the same having contested the election.

11. In the circumstances, the moment, he ceased to be member of village panchayat, he would cease to be Member of the Agriculture Produce Market Committee. In any case, this fact ought to have been disclosed by the petitioner no. 1 before the authority below so also before this Court. Instead, petitioner no. 1 continued to instruct the counsel to take a stand that he being agriculturist, will continue to be Member of the Agriculture Produce Market Committee, even if, the gram panchayat of which he is member is dissolved. Such stand which is contrary to the provisions of law and to continue with the same despite pointing out the provisions will only attract costs.

12. Put altogether, though the order passed by the respondent no. 1 is liable to be quashed and set aside, the same will be so quashed and set aside only to the extent of petitioner no. 2. As regards petitioner no. 1, he carries a blame of suppressing vital facts and, therefore, is not entitled to any relief. Hence, following order.

ORDER

(i) The petition filed by petitioner no. 1 is dismissed with costs of Rs. 10,000/- to be paid to the Bar Library of High Court Bar Association, Nagpur within two weeks from today.

(ii) The petition filed by petitioner no. 2 is partly allowed. Order impugned dated 30-1-2025 passed by respondent no. 1 - District Deputy Registrar, Co-operative Society, Akola is quashed and set aside.

(iii) The proceedings are restored to the file of respondent no. 1 for consideration afresh who shall decide the same once the revision filed by petitioner no. 2 challenging the report

submitted by respondent no. 2 is decided by the Divisional Joint Registrar.

13. Writ petition is disposed of in above terms.

(Anil L. Pansare, J.)

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