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**(1954) 11 BOM CK 0001**

**In the Bombay High Court**

**Case No : Special Civil Application No. 76 of 1954**

Keshavlal Kalidas Chawan

APPELLANT

Vs

The State of Bombay

RESPONDENT

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**Date of Decision :** 22-11-1954

**Acts Referred:**

**Citation :** (1955) 57 BOMLR 220 : (1955) 2 LLJ 199

**Hon'ble Judges :** M.C. Chagla, C.J.;Dixit, J

**Bench :** Division Bench

**Final Decision :** Dismissed

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## **Judgement**

M.C. Chagla, C.J.—The petitioner is employed as a worker in a textile mill at Ahmedabad. He is also a member of opponent No. 4 which is the Ahmedabad Majoor Sahkari Bank Ltd. Under by-law 4 of this society all the textile workers residing in the city of Ahmedabad or the district of Ahmedabad were entitled to become members. An amendment was moved to this by-law at the general meeting of the society and by this amendment the right to join the society was limited only to those textile workers who were members of the Majoor Mahajan Sangh, a trade union functioning in Ahmedabad. This resolution was passed on September 28, 1952, and the amendment was sanctioned by the Registrar on July 18, 1953, The petitioner appealed to Government against the order of the Registrar sanctioning this amendment and the appeal was dismissed on October 15, 1953, and the petitioner has come before us, and the relief which he seeks is to quash the order passed by the Registrar sanctioning the amendment, or in the alternative to compel the Registrar to refer a dispute, which he says exists between him and the Society touching the constitution of the Society u/s 54 of the Co-operative Societies Act, to arbitration.

2. The contention of Mr. Gokhale is that the order of the Registrar was bad inasmuch as it contravened the provisions of Section 7. Section 16 provides that no amendment of the by-laws of a society shall be valid until approved by the resolution of a general meeting and registered under this Act for which purpose a

copy of the amendment shall be forwarded to the Registrar, and Sub-section (2) provides that if the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may register the amendment. Therefore, the Registrar is not competent to register any amendment of a by-law which is contrary to the Act or to any of the rules, and Mr. Gokhale's submission is that this amendment is contrary to Section 7. Section 7 provides for conditions of registration of a co-operative society and the conditions are that there must at least be ten persons who are qualified to be members, and there are further conditions laid down with regard to a society, the object of which is the creation of funds to be lent to its members?and the society we are concerned with is a society which falls in that category?, and the further conditions are that all the persons forming the society must reside in the same town or village or in the same group of villages and they must be members of the same tribe, class or occupation. The second condition has a proviso and that is that the Registrar is given the power to direct otherwise. There is a further provision in Section 7 which deals with admission of members after the registration of the society and that provision is that no person shall be admitted to the membership of any such society after its registration unless such person fulfils the requirements of Clause (a) or (b) as the case may be.

3. Now, this society undoubtedly consisted of more than ten persons and all the persons reside in Ahmedabad and they also all belong to the same occupation which is textile workers. What is urged by Mr. Gokhale is that Section 7 does not make it permissible for the society to prohibit a person of the same occupation to become a member of the society. Mr. Gokhale says that when the society was started any textile worker in Ahmedabad could become a member. As a result of this amendment only those textile workers can become members who belong to a particular trade union. Now, there is more than one trade union in Ahmedabad and the consequence of accepting this amendment is that the textile workers who may choose to join other trade unions will not be qualified to become members of the society. It is clear that Section 7(1)(b) does not require that all the members of a particular occupation should be members of a co-operative society. The prohibition is against permitting persons of another occupation from joining the society. But so long as you have ten persons, and so long as you have the ten persons residing in a particular town or village, and so long as you have those ten persons belonging to the same occupation, there is nothing to prevent those ten persons starting a co-operative society. Section 7 does not require that all persons belonging to a particular occupation in a particular place must join before a co-operative society can be started. In other words, it would be open to the textile workers of a particular mill to start a co-operative society on their own. It is not necessary that textile workers of all the mills must join before they could get registration u/s 7, and even with regard to the qualification of a person who should be admitted after registration all that Section 7(1)(b) requires is that admission should not be thrown open to any person who does not satisfy the requirements of cls, (a) and (b). In other words; no person should be allowed to

become a member who does not reside in the same town or village as the members who originally belonged to the society at the time of registration or who should not be carrying on the same occupation as members who originally did at the time of registration.

4. Now, the result of the amendment is in no way to contravene this provision because the amendment does not permit any person to become a member who does not reside in Ahmedabad, nor does it permit any person to become a member who is not a textile worker. What the amendment does is to restrict the membership to a section of the persons who carry on a particular occupation, and there is nothing in Section 7 to prevent the co-operative society amending its by-laws to this effect, nor is there anything in Section 16 which could prevent the Registrar from giving his approval to an amendment so passed by the general meeting of the society. Whether such an amendment should be passed, or not, whether it is good policy to deprive the right of enjoying the membership of this society to textile workers who do not belong to the Majoor Mahajan Sangh, is entirely a different question. That is a question of the internal management of the society and the best person to decide whether it is good policy or not is the society itself and not this Court. Therefore, if it is within the competence of the society to restrict the membership and if it is within the competence of the Registrar to give his approval to such an amendment, the grievance made by Mr. Gokhale is a grievance as to the merits of the amendment which cannot be inquired into by the Court. In our opinion it is unnecessary to consider what are the powers of the Registrar under the expression "otherwise directs," because that contingency would only arise at the time of registration.

5. The next contention urged by Mr. Gokhale is that there was a dispute between the petitioner and the society touching the business or the constitution and it was obligatory upon the Registrar to refer that dispute u/s 54 of the Act. In our opinion, the only dispute which really arises is the dispute with regard to the power of the Registrar to register the amendment u/s 16, and Section 54 does not contemplate a reference to arbitration when there is a dispute between a member and the Registrar. It is not as if the petitioner is without a remedy if the Registrar goes wrong, because Section 64 of the Act gives him the right of appeal against the decision of the Registrar, a right which the petitioner has exercised.

6. It is then urged by Mr. Gokhale that it is open to him to agitate the dispute with regard to the merit of the amendment and that dispute should be referred to arbitration. Now, the reference contemplated by Section 54 must be a reference where there must be a dispute which must be capable of adjudication and the resulting award must be capable of being enforced. It is difficult to understand how the arbitrators can decide as to the merits of the amendment which can only be properly decided by the general body itself. Assuming the arbitrators take the view that the amendment was not a proper amendment and the by-law should not have been amended as it has been amended, it is difficult

to understand how the arbitrators could enforce their view. It is not suggested that by an award given by the arbitrators they could call upon the general body to revoke the amendment or compel the Registrar to withdraw his approval.

7. In our opinion the petition is not well founded. The result is that the petition fails and must be dismissed with costs.