(2002) 10 BOM CK 0008

In the Bombay High Court

Case No : Writ Petition No. 2914 of 2001

Prakash Manikchand Mutha — APPELLANT

Vs

State of Maharashtra and Others — RESPONDENT

Date of Decision : 24-10-2002

Acts Referred:

Citation : (2003) 4 MhLj 484

Hon'ble Judges : V.K. Tahilramani, J;B.H. Marlapalle, J

Bench : Division Bench

Advocate : V.D. Hon, for the Appellant; E.P. Savant, Govt. Pleader For Respondent No. 1 to 4 and R.N. Dhorde, for the Respondent

Final Decision : Allowed

Judgement

B.H. Marlapalle, J.—This petition filed under Articles 226 and 227 of the Constitution, deals with the interpretation of Section 73-A(5) of the Maharashtra Co-operative Societies Act, 1960 (For short, "the Act".) and prays for a writ or direction that the respondent No. 5 has suffered disqualification under the said provision, on the ground that he has been a designated Officer of the respondent No. 6 Bank i.e. Vaijapur Merchants Co-operative Bank Ltd. at Vaijapur for more than 10 years in aggregate/consecutively. Before we examine the rival contentions and record our findings, it would be imperative to set out the factual matrix in greater details so as to appreciate the issues involved in this petition.

2. The respondent No. 6 Bank, is a co-operative bank, registered under the Act and its area of operation was enlarged pursuant to the resolution dated 11-11-1973 to the municipal area of Vaijapur (a Tahsil Headquarter) and Gram Panchayat Area of Lasur Station in Gangapur Taluka of Aurangabad District. By further resolution dated 14-2-1981, the area of operation was further extended to Vaijapur, Gangapur and Kannad Towns and the Grampanchayat area of Lasur station (Kannad is also taluka headquarter in Aurangabad District). This area of operation was further extended to Sillod and Paithan towns as well as the municipal corporation area of Aurangabad City and the Grampanchayat area of

village Pandharpur, Taluka Aurangabad and Pishor (Taluka Kannad), by resolution dated 8-10-1995. The same area of operation remained till 26th September 2000 when it was extended to the entire Aurangabad District.

3. The share capital of the respondent No. 6 Bank is set out in the following tabular statement:

Year ended on	Paid up Capital	Authorised Capital
30th June 1990	9,88,500/-	11,00,000/-
30th June 1991	12,61,900/-	15,00,000/-
30th March 1992	18,28,800/-	20,00,000/-
31st March 1993	23,60,400/-	30,00,000/-
31st March 1994	30,53,700/-	40,00,000/-
31st March 1995	39,56,700/-	40,00,000/-
31st March 1996	43,99,900/-	45,00,000/-
31st March 1997	45,36,600/-	45,00,000/-
31st March 1998	46,64,900/-	50,00,000/-
31st March 1999	49,37,500/-	1 Crore
31st March 2000	51,88,800/-	1 Crore
31st March 2001	54,99,300/-	1 Crore

4. On 15-2-1999, the manager of respondent No. 6 Bank, addressed a letter to the respondent No. 3, pointing out that the then Chairman had completed a tenure of 10 years as a designated officer of the said Bank i.e. from 17-2-1989 to 17-2-1999, and advice was sought, as to whether he could be continued further in view of the provisions of Section 73A of the Act. A reminder was sent on the said subject on 23rd February, 1999 and finally by his letter dated 24-2-1999, the respondent No. 3 was informed by the respondent No. 4 that the then Chairman Shri Jugraj Amlokchand Sancheti was elected as a Chairman of respondent No. 6 vide resolution dated 17-10-1989 for a full term of 5 years and again on 16-7- 1995, he was elected Chairman for the second term, without any break and in this manner, as on 17-10-1999, he had completed a period of 10 years as Chairman of the said Bank. It was also pointed out that the share capital of the Bank was 49,30,900 as on 23-2-1999 and its area of operation extended to Vaijapur, Sillod, Kannad, Paithan and Gangapur municipal limits, Aurangabad municipal corporation limits and Lasur station (Gangapur Taluka), Pandharpur and Ranjangaon Shenkunje (Aurangabad Taluka) village panchayat limits. Based on this report, the respondent No. 3, by communication dated 25-2-1999, informed the Manager of respondent No. 6 Bank that Shri Jugraj Sancheti had completed a continuous tenure of 10 years as Chairman of the

Bank and, therefore, he was disqualified to hold any office of a designated officer any further and his tenure as Chairman came to an end on 17-2-1999. It appears that Shri Jugraj Sancheti, submitted an application under Sub-section (2A) of Section 73A of the Act before respondent No. 3 and claimed that he did not suffer any disqualification. This application was adjudicated upon by the respondent No. 3 and was opposed by the present respondent No. 5. The case was registered as Shri Jugraj Sancheti v. Bhagwan Tambe, Vaijapur (present respondent No. 5) and by decision dated 22- 6-2001, the application submitted by Shri Sancheti was turned down. The respondent No. 3 held that Shri Sancheti was not eligible to continue as the Chairman of the respondent No. 6 Bank, in view of Section 73-A(5) of the Act.

5. Pursuant to the communication dated 25-2-1999, addressed by the respondent No. 3, the present respondent No. 5 was elected as Chairman of the respondent No. 6 Bank on 11-3-1999 and he continued in the said post till 19-3-2001 i.e. till the expiry of 5 years tenure of the Managing Committee. Thereafter, the elections to the managing committee of respondent No. 6 Bank were held in March, 2001 and on 20-3-2001, the respondent No. 5 came to be re-elected as Chairman and thus, he resumed the office of Chairman for the second time and he continues to occupy the said post as at present. His tenure as Vice-Chairman and Chairman of the Bank could be shown as under for ready reference :

6. The present petitioner had submitted an application to the respondent No. 3 on 11-5-2001 through Shri A. D. Kasliwal, Advocate and prayed for declaration that the respondent No. 5 had suffered disqualification u/s 73A(5) of the Act from holding the post of a designated officer i.e. Chairman and Vice Chairman of the respondent No. 6 Bank. As there was no final decision, the petitioner approached us in the instant petition filed on or about 10-7-2001. While issuing notice before admission, a Division Bench of this Court referred to the application submitted by the petitioner to the respondent No. 3 and directed the Registrar of Co-operative Societies, to hold an enquiry, after giving due notice to the concerned, to find out whether the respondent No. 6, Co-operative Bank, fell in one of the categories mentioned u/s 73A(2) of the Act and if so from which date. The decision was required to be submitted within a period of 4 weeks, and accordingly, the respondent No. 3 passed an order dated 3rd October, 2001, holding that the respondent No. 6 bank is not engaged in any commercial activities and the same is also not classified as a Commercial Society and it did not fall under any of the 3 categories under Sub-section (2) of Section 73A of the Act till 25th September, 2000 and from 26th September, 2000, it fell in the category-Ill under the said sub-section.

7. This order was brought on record and the petition came up for hearing, on admission. A preliminary objection was raised on behalf of the respondents regarding alternative remedy by way of Revision u/s 154 of the Act on the ground that the order passed by the respondent No. 3, could be challenged by

filing such a Revision. By our order dated 11-2-2002, while granting rule, the preliminary objection was rejected with the following observations :

"The issue raised in this petition is regarding the interpretation of Section 73(A)(2) and (5) of the Maharashtra Co-operative Societies Act, 1960.

We deem it appropriate to overrule the preliminary objection regarding alternative remedy by way of revision against the impugned order passed by the District Deputy Registrar, as the said issue of alternative remedy could not be considered while we are required to interpret the meaning and effect of the provisions of Section 73A of the said Act."

8. When C. A. No. 3024/2002 filed in the present petition came to be decided on 18-6-2002, a contention was raised on behalf of the respondent No. 5 that the petition was required to be placed before the Single Bench and this objection was also overruled.

9. The respondent State Authorities as well as respondent Nos. 5 and 6 have supported the order passed by respondent No. 3 on 3rd October, 2001 and have urged before us that it does not call for any interference at our hands and the petition is required to be dismissed. Apart from the Preliminary objection regarding alternative remedy and the objection to be heard by Single Bench, which objection have been rejected by earlier orders of this Court, the learned counsel for the respondent No. 5 submitted that the respondent No. 3 has in his order dated 3rd October, 2001, considered the facts and on analysing the same, recorded the finding that the respondent No. 6 Bank did not fall in any of the 3 categories mentioned in Sub-section (2) of Section 73A of the Act and it is not engaged in any commercial activity and, therefore, these finding of facts should not be interfered or disturbed by us, while exercising our supervisory powers. In support of this contention, reliance has been placed on the following decisions of the Apex Court:

1] Sheela Devi Vs. Jaspal Singh, .

2] Manager, St. Thomas U.P. School, Kerala and Another Vs. Commissioner and Secretary to General Education Department and Others, .

10. So far as the preliminary objection regarding alternative remedy is concerned, notwithstanding the fact that the said objection is no more open to challenge in view of our order dated 11-2-2002, we may usefully refer to the Division Bench judgment of this Court in the case of "Haribhau Ramrao v. State of Maharashtra" reported in 1994(2) Mh.L.J. 1885 = 1994 MCR 657. The petition was moved before us seeking a declaration that the Chairman and Vice-Chairman of a Sugar Factory were disqualified to continue to be the designated officers in view of the provisions of Section 73(A)(5) of the Act. While an application for such declaration was pending before the commissioner of Sugar, this Court had directed on 6-9-1994, to the said Commissioner to decide the matter relating to disqualifications of the Chairman and Vice Chairman. The Commissioner had

submitted his findings on 17-9-1995 and held that they were not disqualified. The said order was challenged by amending the petition and the petition was entertained and decided on merits. The petition was allowed and a declaration was given that the Chairman and Vice Chairman of the said karkhana, had ceased to hold the respective offices. In the instant petition as well, after respondent No. 3 passed an order dated 3rd October, 2001, the petition has been amended challenging the legality of the said order and it has been prayed to quash and set aside the same by issuing a writ of Certiorari. We, thus, overrule all the preliminary objections raised on behalf of the respondents for entertaining this petition.

11. On merits, the following issues arise for our considerations, namely,

(a) Whether the respondent No. 6 is covered under the exception in explanation below Sub-section (2) of Section 73A of the Act;

(b) Whether the respondent No. 6 was in any of the three categories mentioned in Sub-section (2) of Section 73A of the Act from 1990 onwards;

(c) Whether the order passed by respondent No. 3 on 3rd October, 2001 is sustainable in law; and

(d) Whether the declaration sought for, can be granted.

12. Section 73A came to be incorporated under the Act by amendment of 1969 and it came into force from 1st July, 1971. Sub-sections (1) to (5) as are incorporated, which are relevant for our considerations read as under :

73A. Disqualification for being designated officer simultaneously of certain categories of societies or for being designated officer of the same society for more than ten years (1) In this section and in Sections 73C, 73D and 73E, "a designated Officer" means the Chairman and the President, and includes any other officer of the society as may be declared by the State Government, by notification in the Official Gazette, to be a designated officer, but does not include any officer appointed or nominated by the State Government or by the Registrar. (2) No person shall, at the same time, be or continue to be a designated Officer of more than one society falling in Category I or Category II or Category III of the categories mentioned below; and shall not be or continue to be a designated Officer in more than two societies in the aggregate in the three categories :--

Category I: Societies, the area of operation of which extends to the whole of the State.

Category II : Societies, the area of operation of which does not extend to the whole of the State --

(a) but extends to Greater Bombay and the authorised share capital of which is more than Rs. 10 Lakhs; or

(b) but extends to one or more districts; or

(c) and is less than a district, but the authorised share capital of which is more than Rs. 10 lakhs.

Category III : Societies, the area of operation of which does not extend to the whole of a district but extends to one or more talukas, or the authorised share capital which is not more than Rs. 10 lakhs but is less than Rs. 5 lakhs. (Explanation : For the purpose of this sub-section, the expression "Society" shall not include a society with no share capital and a society not engaged in commercial activities.) Clause (c) of Category II under Sub-section (2) suffered an amendment by Maharashtra 11 of 1976 and for the words "and is also less than a district, but" the words "is less than a district and" were substituted and the amended Sub-section (2), thereafter read as under:--

(2) No person shall, at the same time, be or continue to be a designated Officer of more than one society falling in Category I or Category II or Category III of the categories mentioned below; and shall not be or continue to be a designated Officer in more than two societies in the aggregate in the three categories:--

Category I: Societies, the area of operation of which extends to the whole of the State.

Category II : Societies, the area of operation of which does not extend to the whole of the State --

(a) but extends to Greater Bombay and the authorised share capital of which is more than Rs. 10 Lakhs; or

(b) but extends to one or more districts; or

(c) is less than a district and the authorised share capital of which is more than Rs. 10 lakhs.

Category III : Societies, the area of operation of which does not extend to the whole of a district but extends to one or more talukas, or the authorised share capital which is not more than Rs. 10 lakhs but is less than Rs. 5 lakhs.

(Explanation : For the purpose of this sub-section, the expression "Society" shall not include a society with no share capital and a society not engaged in commercial activities.)

13. The categorization under Sub-section (2) suffered yet another amendment in 1996 by Maharashtra Co-operative Societies (Amendment) Act, 1995 and the present amended provisions of Sub-section (2) read as under:

(2) "No person shall, at the same time be or continue to be, a designated officer of more than one society falling in Category I or Category II or Category III of the categories mentioned below; and shall not be or continue to be a designated officer in more than two societies in the aggregate in the three categories:--

Category I:-- Societies, the area of operation of which extends to the whole of the State.

Category II :-- Societies, the area of operation of which does not extend to the whole of the State,

(a) but extends to at least one whole district irrespective of their authorised share capital; or

(b) but extends to areas comprised in part or parts in one or more districts and the authorised share capital of which is more than Rs. 10 lakhs.

Category III : Societies, the area of operation of which does not extend to one whole district but extends at least to one whole taluka, or the authorised share capital of which is not more than Rs. 10 lakhs but is not less than Rs. 5 lakhs.)

Explanation :-- for the purposes of this sub-section, the expression "society" shall not include a society with no share capital and a society not engaged in commercial activities).

Whereas Sub-section (5) as amended from time to time reads thus: "(5) No person shall be, or shall continue to be, a designated officer of any society of any of the categories referred to in Sub-section (2) for a period of more than ten years in the aggregate and at the expiration of that period any such person shall cease to be a designated officer of that society, and shall not be eligible for being re-elected or re-appointed as a designated officer, until a period of one term of the committee has elapsed after the completion of the aforesaid period of ten years.

Explanation : For the purposes of this sub-section :

(a) in calculating the aggregate period of ten years in office, any period for which the person concerned may have been such officer, before the commencement of the Maharashtra Co-operative Societies (Second Amendment) Act, 1969, shall be ignored;

(b) If any person resigns his office as a designated officer at any time within twelve months of the date on which the aggregate period of ten years would, but for his resignation, have been completed, he shall be deemed to have completed the period of ten years on his resignation".

The Word "consecutive" was substituted by word "aggregate" and the period of "six years" changed to the period of "ten years" by amendment of 1986. As per Sub-section (1) of Section 73A, a designated officer means, the Chairman and the President and included any other officer of the society as may be declared by the State Government, by notification in the Official Gazette, to be a designated Officer, but does not include any officer appointed or nominated by the State Government or by the Registrar. Explanation to Sub-section (2) of Section 73A states that for the purpose of this sub-section, the expression "Society" shall not include a society with no share capital and a society not engaged in commercial activities. Placing reliance on this language of the explanation, it is contended by the respondents that respondent No. 6 Bank is not engaged in any commercial activities and, therefore, it is not a society for the purpose of categorization under Sub-section (2) of Section 73A and thus, it does not fall in any of the three categories stated therein. This contention has been upheld by the respondent No. 3 in the impugned order dated 3rd October, 2001, and reference in support of this finding has also been made to the provisions of Rule 10 of the Maharashtra Co-operative Societies Rules 1961 (for short "the Rules of 1961") The said Rules, reads thus :

Class

1 Sub-Class

2 Explanation

3

1. Agricultural society (a) Marketing Society

All purchases and sale Unions and marketing societies of agricultural produce.

(b) Other Agricultural Societies

Dairy and Cattle Breeding Societies.

1-A Crop Protection society ? ?

1-B Lift irrigation society ? ?

2. Consumer Society ? Stores and Canteens

3. Co-operative Bank (a) Central Bank District Central Banks.

(b) other banks Urban Banks

3A

Land Development Bank having provisions in their bye-laws to advance loans to cooperative societies.

4. Farming society

(a) Collective Farming

Farming Societies where major area of lands is acquired from outside agency for cultivation by members.

(b) Joint farming

Societies where the major area of land brought together for cultivation is held by members.

(c) Dairy farming

Farming societies undertaking dairy activities complimentary to their arable farming or vice versa.

5. Housing Society

(a)Tenant-ownership society

Housing societies where land is held either on lease-hold or free-hold basis by societies and houses are owned or are to be owned by members.

(b) Tenant co-partnership society

Housing societies which hold both land and buildings either on leasehold or tree hold basis and allot them to their members.

(c) other housing societies

House Mortgage societies and house construction societies.

6. Processing Society

(a) Agricultural processing

Societies, which process agricultural produce like Co-operative sugar factories and oil Mills.

(b) Industrial processing society

Wool processing and tanners societies.

7. Producers'' Society

(a) Industrial producers'' society

Weavers and Caroebters Societiees.

(b) Labourers Industrial

Forest Labourers Societies and Labour Contract Societies.

8. Resource Society

(a) Credit Resource Society

Agricultural credit, Thrift, Urban Credit and /Salary Earners'' Societies.

(b) Non-credit Resource Society

Seeds and implements and agricultural requisites societies.

(c) Service Resource Society

Service Co-operative and Multi purpose Cooperative Societies.

9. General Society (a) Social

Better living Societies and Education Societies

(b) Commercial

Insurance and Motor Transport Societies.

(c) Other

Not falling in either of the above sub-classes.

(2) If the Registrar alters the classification of a society from one class of society to another, or from one sub-class thereof to another, he shall issue to the society a copy of his order as in the case of an amendment of the bye-laws.

14. We have referred to the byelaws of the respondent No. 6 bank and it is clearly stipulated therein that it has been categories as a "major class-co-operative bank" with special category "other banks". Thus, it is engaged in business of banking as contemplated under the Banking Regulations Act, 1949. It is urged before us that it does not carry out any commercial activity and, therefore, unless it is categorised in "general society" with special category "commercial", as is stipulated under Rule 10 of the Rules of 1961, it could not fall in any of the categories under Sub-section (2) of Section 73A of the Act. We have noticed these are only enabling provisions and after registering a society, the registrar has powers to clarify the category of the society. Admittedly, in the instant case, there is no order clarifying the Bank Class-9 (General society - Commercial).

15. The New Webster''s Dictionary (Delux Encyclopedic Edition), defines the word "Commercial" as pertaining to commerce or trade; dealing with or depending on commerce; carrying on commerce; produced for mass consumption, with profit as a primary aim, and often of interior quality. The meaning of the term, "Commercial Bank" in the said dictionary is, "A bank that includes among its services checking accounts and short term loans to business.". whereas "Commercialize" means "to render commercial in character, methods, or spirit; to make available for sale; to seek commercial profits from.

It is well-known that commercial establishment invariably undertake an economic activity, not casual but systematically or habitually conducted for the production or distribution of goods or for rendering services to the community and organizing or arranging. It envisages the co-operative endeavour between the employer and employee and it would also be a charitable organization or a purely profit making business enterprise.

16. On the face of these interpretations given to the term "commercial", we do not see any reason to accept the view taken by the respondent No. 3 and more so when in the byelaws; the respondent No. 6 Bank itself has been categorized as "other Bank" under the Head of "Major Co-operative Bank" which is now equivalent to "Co-operative Bank" under entry No. 3 of Rule 10 reproduced hereinabove. In addition, the respondent No. 3 (D.V. Sali) rejected the application filed by Shri Jugraj Sancheti, former Chairman and held that he suffered disqualification under Sub-section 73A(5) of the Act, by his order dated 22-6-2001, i.e. just about four months prior to the impugned order was passed. It is not known, how his view was changed in respect of the status of the respondent No. 6 Bank, within a period of about 4 months. When the

establishment is engaged in a banking industry, which is carried out by the organized activities of employer and employees, with a profit motive, and under the Banking Regulation Act, 1949 and the directives issued from time to time, by the Reserve Bank of India. It has a assured participation by the shareholders who are normally the borrowers. Such shareholders are given dividends at the end of the financial year depending upon the profits of the Bank and by taking into considerations the entire activities of the respondent No. 6 Bank, we have no doubt in our mind that it does not fall under the exception carved out under the explanation to Sub-section (2) of Section 73A of the Act. The view taken by the respondent No. 3 in this regard is, therefore, grossly erroneous and it cannot be, by any stretch of imagination, termed as a "possible view".

17. It is also pertinent to note at this stage that the learned Government Pleader on instructions from the Divisional Joint Registrar, Aurangabad stated that the provisions of Section 73A(5) of the Act have been made applicable and they are applied to the District Central Co-operative Banks and this is one more reason to hold that the co-operative banks are not covered under the exception made out in explanation to Sub-section (2) of Section 73A of the Act. Though, this issue was not specifically covered in the decision of this Court in the case of The Bhandara District Central Co-operative Bank Ltd. and Others Vs. State of Maharashtra and Another, , which was confirmed in the case of Bhandara District Central Co-operative Bank Ltd. and Others, Vs. State of Maharashtra and Another etc., , the constitutional validity of Section 73A was finally decided by the Apex Court in the said case.

18. Now, coming to the issue of the categories as stipulated under Sub-section (2) so as to attract the provisions of Sub-section (5) of Section 73A of the Act, we have noted that, right from the beginning, the area of operation of the respondent No. 6 Bank had exceeded beyond limits of Vaijapur Town inasmuch as, initially, it was the municipal limits of Vaijapur town and the village panchayat limits of Lasur Station in Gangapur Taluka of Aurangabad District. But, by 1987, the operational area of the Bank was extended to the municipal area of Vaijapur, Gangapur, Kannad and village panchayat area of Lasur Station in Gangapur Taluka. At no point of time, the area of operation of the respondent No. 6 Bank was a Taluka or part thereof and it always extended beyond one or more Talukas. As in 1987, it extended to 3 Talukas, namely, Vaijapur, Gangapur and Kannad and the provisions of Sub-section (2) of Section 73A prior to the amendment of 1996 had three sub-categories in Category (II) and Category (iii) included Societies, the area of operation of which, did not extend to, to the whole of the District but extended to one or more Talukas. It also covered the societies, the authorised share capital of which was not more than Rs. 10 lakhs, but was less than Rs. 5 lakhs. Two different Division Benches of this Court i.e. in the case of "Kisan Govindrao Walke v. State of Maharashtra" 1984 Mh.L.J. 162 and in The Bhandara District Central Co-operative Bank Ltd. and Others Vs. State of Maharashtra and Another, have held that the word, "or" used in Category III cannot be read as "and". Therefore, there are 2 different group of Societies

which are envisaged under Category-Ill sub- category (c) in Category II, after its amendment of 1976, reads thus :

"Societies, the area of operation of which does not extend to the whole of the State, but is less than a District, the "authorised share capital of which is more than 10 lakhs".

As against the language used for the purpose of Sub-section (2) regarding Category-II, it is noticed that the amendment of 1996 has used words like, "Whole District" or "whole Taluka" which words were not in the original provision in category-II. The amended provisions, reads thus :

Category-II "Societies, the area of operation of which does not extend to the whole of the State,

(a) but extends to one whole District irrespective of their authorised share capital

(b) but extends to area comprised in part or parts in one or more Districts and the authorised share capital is more than Rs. 10 lakhs.

If regards be had to the language of Category II under Sub-section 2 prior to its Act, 1996, undoubtedly, the respondent No. 6 fell under Category II (c) from 30th June, 1990 onwards. Its authorised share capital was more than Rs. 10 Lakhs on that date and the area of its operation was less than a District. However, after the area of operation was extended to the entire District of Aurangabad on 26th September, 2000, it would certainly fall in Category (II)(b) of the amended provisions in 1996. The finding of respondent No. 3 that it fell under category III after 26-9-2000 is, thus, patently erroneous. 19-20. The preamble to the Amendment Act of 1969 in Clause 12 stated thus :

"In the co-operative movement in the State, a group of persons have been holding the key positions in several important co-operative institutions simultaneously and for long period. With the result that new leadership is not being built up to the desired extent and the movement is tending to become a close preserve of a few individuals. To check this unhealthy tendency and to give a more democratic character to the co-operative institutions, it is necessary to prescribe certain limitations in the statute itself. Accordingly, it has been proposed that a person should not hold an important office like Chairman or President in more than one society at each of the three levels, viz. Apex, District and Taluka level. Similarly, it has been proposed that a person should not hold such office at more than two levels at the same time. It is also proposed to provide that a person should not be a designated officer of any such society for more than six consecutive years."

By referring to the above aims and objects behind the scheme of Section 73A of the Act, it was submitted that the provisions thereby must be given their natural meaning and while interpreting the same, this Court cannot add or delete any of the words. We have no dispute with this submission. In the case of Gurudevdatta VKSSS Maryadit and Others Vs. State of Maharashtra and Others, , the Supreme

Court reiterated the rules of interpretation of statutes in the following words :

"It is a cardinal principle of interpretation of a statute that the words of a statute must be understood in natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary. The golden rule is that the words of a statute must prima facie, be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the Courts are bound to give effect to that meaning, irrespective of the consequences. It is said that the words themselves best declare the intention of the law giver. The courts have adhered to the principle that effects should be made to give meaning to each and every word used by the legislature and it is not a sound principle of construction to brush aside words in a statute as being inapposite surpluses. If they can have a proper application in circumstances conceivable within the contemplation of the statute."

21. By referring to the statement of objects and reasons of the 1996 amendment to the provisions of Section 73A, Shri Dhorde, the learned counsel for respondent No. 5, submitted that unless the area of operation of respondent No. 6, Bank extended to whole taluka or whole district, it could not be listed in any of the categories i.e. category II or Category III. As the area of operation was extended to entire District of Aurangabad only from 26th September, 2000, the Bank could, at the most fall in Category II (b) in Sub-section (2) of Section 73A of the Act, and not before that date. Even initially, unless the entire Vaijapur Taluka was the area of operation of the respondent No. 6 Bank, it could not be listed in either category II or Category III and more so when, the area of operation confined only to the municipal limits of Vaijapur, it could not be stated that the area of operation of the Bank extended to the entire Vaijapur Taluka area, urged the learned counsel. The statement of objects and reasons for the 1996 amendment in paras 2 and 5, it was stated that:--

"Section 73A(2) of the Act, does not speak of the societies having area of operation extending to a part of a district or parts of districts. It also does not speak of societies of which the area of operation extends to a part of a taluka or parts of talukas. This gives rise to various interpretations while deciding the category into which a society falls. To overcome this difficulty and to avoid scope for any ambiguity, it is proposed to amend the Categories II and III in Sub-section (2) of Section 73A.

On the basis of these statement of objects and reasons, it was contended that the legislature was mindful of the fact that unless the area of operation of a society extended to whole of the taluka, it could not be classified in any of the categories i.e. category II or III and if the area of operation extended to a part of taluka or district, such categorization could not be done and, therefore, the amendment of 1996 was brought into force. We are not impressed by these submissions though, the learned counsel for the respondent No. 5, in support of his arguments relied upon a Division Bench Judgment of this Court in case of "Kisan Govindrao Walke v. State of Maharashtra" (supra). The language of the statute must be given its natural and true meaning. The Court, while interpreting the provisions of statute cannot add words therein. Category III under Sub-section (2) of Section 73A prior to its amendment in 1996, specifically provided to include the societies, the area of operation of which did not exceed to the whole of a district, but extended to one or more talukas and we have noted earlier that right from 1973, the area of operation of the respondent No. 6 Bank extended to two different talukas, i.e. Vaijapur and Gangapur. There is no difficulty in holding that prior to 30th June, 1990, the respondent No. 6 Bank fell under category III under Sub-section (2) of the Act and thereafter it fell in category II(c) under the said sub-section. After its amendment in 1996, till 25th September 2000, the respondent No. 6 Bank fell in category II(b) and from 26th September, 2000, it falls in the category II(a). The facts in the "Walke''s case" cannot be compared with the case at hand. The area of operation of the society in that case consisted of a block only within a tahsil and the said block was converted into an independent taluka. A new taluka was thus born and, therefore, when this court took a view that the society did not fall in any of the 3 categories in Sub-section (2) of Section 73A. The said view is not applicable to the facts of this case at hand.

22. We shall have to read the provisions of Sub-section (2) of Section 73A and to compare it prior to and after the amendment of 1996 and the words therein will have to be given their own natural meaning. If the contentions of Shri Dhorde, are accepted, the language of Category III in Sub-section (2) prior to 1996 will have to be read as under :

"Societies, the area of operation of which does not extend to the whole of a district but extend to the whole of one or more talukas."

In short, the words "the whole of are sought to be incorporated in the language of the statute. When the legislature in its own wisdom did not do so, and the word "the whole of preceded the word "district" cannot be attached to the words "one or more talukas".

"So far as the category II (c) is concerned, the amendment of 1976 is very clear and any society which has its area of operation less than a district and authorised share capital of which is more than 10 lakhs, would certainly fall therein and as noted a little while ago, the respondent No. 6 Bank fell in that category right from 30th June, 1990 and after the 1996 amendment, it fell in category II(b). Thus from June 1990 till date, the respondent No. 6 Bank has been under category II and for sometime in sub Group (c) and sub Group (b) for the remainder period. From 26th September, 2000 onwards, it came under category II(a) and thus, for last more than 11 years, it remained in Category II. There is no dispute that the respondent No. 5 has been occupying the post of Vice Chairman and Chairman during the period as indicated above and the same period has been more than 10 years, even, as on the date, the petitioner submitted representation to the respondent No. 3. Sub-section (5) of Section 73A in no uncertain words states that no person shall be or shall continue to be a designated officer of any society of any of the categories referred to in Sub-section (2) for a period of more than 10 years in the and at the expiry of that period, any such person shall cease to be a designated officer for that society and shall not be eligible for being re-elected or reappointed as a designated officer until a period of 1 term of the Committee has elapsed after the election of the aforesaid period of 10 years. It has been admitted that the period of the Managing Committee in the case of the respondent No. 6 Bank is of 5 years. No authority is required to give any declaration and the provisions of Sub-section (5) must operate on their own. The respondent No. 3, when the case of Jugraj Sancheti was referred to him, read the provisions of Sub-section (5) of Section 73A in their logical purport and advised the Bank that Shri Sancheti could not continue to be the Chairman any further. The application filed by Shri Sancheti before respondent No. 3 was contested by the present respondent No. 5 contending that the provisions of Sub-section (5) of Section 73A of the Act were operative. Having acted upon the provisions of Sub-section (5) of the Section 73A to the case of Sancheti, it was impermissible for him to have a different view in the case of respondent No. 5.

23. We, therefore, hold that the provisions of Sub-section (5) of Section 73A are attracted in the case of respondent No. 5 and, therefore, he has suffered the disqualification stated therein. The impugned order dated 3rd October, 2001 passed by respondent No. 3 is required to be quashed and set aside and the respondent No. 5 cannot continue to be a designated officer i.e. President/ Chairman or Vice Chairman any further.

24. In the result, we allow the petition and quash and set aside the order dated 3rd October, 2001 passed by the respondent No. 3. The respondent No. 5 has suffered the disqualification as set out in Sub-section (5) of Section 73A of the Act right from the date, he has completed the period of 10 years as a designated officer i.e. from 17-2-1989 and he is disqualified to hold the office of Chairman any further unless and until a period of one term of the Committee elapses after the completion of the period of 10 years. Rule is, therefore, made absolute in terms of prayer clause B, C and AA.

We are satisfied that this is a fit case to saddle costs and, therefore, we award the cost of Rs. 2,000/- to be paid by respondent No. 5. Cost shall be remitted with the Registry of this Court within four weeks.

25. Shri Gaikwad, holding for Shri Dhorde, Adv., at this stage submitted an oral application for stay of this order. The application is hereby rejected.