
(2012) 03 BOM CK 0287

In the Bombay High Court

Case No : Letters Patent Appeal No. 450 of 2011 (Arising out of Writ Petition No. 1742 of 2011)

Prashant Tayde

APPELLANT

Vs

The Hon"ble Minister for Cooperation and Textile, State of Maharashtra Mantralaya, Mumbai - 32, The Divisional Joint Registrar, Cooperative Societies, Amravati Division, Sahkar Sankul, Kanta Nagar, Camp Amravati, Yavatmal District Central Cooperative Bank Limited and Narendra Bodkurwar

RESPONDENT

Date of Decision : 02-03-2012

Acts Referred:

Advocates Act, 1961 — Section 38

Bombay High Court (Appellate Side) Rules, 1960 — Rule 18, 18(3)

Constitution of India, 1950 — Article 103, 136, 192, 192(1), 192(2)

Maharashtra Co-operative Societies Act, 1960 — Section 152, 152, 152A, 154, 3(1)

Citation : (2012) 3 ALLMR 337 : (2012) 2 BomCR 713 : (2012) 114 BOMLR 1136 : (2012) 3 MhLj 860

Hon'ble Judges : P.D. Kode, J;B.P. Dharmadhikari, J

Bench : Division Bench

Advocate : Subhash Paliwal, for the Appellant; B.H. Dangre, Additional Govt. Pleader for Respondent Nos. 1 and 2, Mr. P.C. Madkholkar, Advocate for Respondent nos. 3 and 4 and Mr. A.M. Ghare, Advocate for Respondent nos. 3 and 4 in Letters Patent Appeal Nos. 450, 451, 453, 454, 455, 456, 457 and 458 of 2011, for the Respondent

Judgement

B.P. Dharmadhikari, J.—By these Letters Patent Appeals filed under Clause 15 of the Letters Patent Act, respective appellants are questioning the common judgment dated 15.09.2011 delivered by the learned Single Judge in Writ Petition No. 2149/2011 and other connected matters i.e. Writ Petition Nos. 1741, 956, 957, 1742, 1743, 2148 and 2150 of 2011. By the said judgment, the learned Single Judge has upheld the preliminary objection raised by respondent No. 3 - District Central Cooperative Bank Ltd and respondent No. 4 its Director, about locus of appellants/petitioners to maintain a petition under Articles 226 and 227 of the Constitution of India. The respective appellants filed Writ Petitions

challenging the orders passed by the Hon''ble Minister (respondent No. 1) in Appeal No. 345/2010 and other appeals on 29.09.2010. Respondent No. 4 Director was earlier declared disqualified and was removed from the post of Director on 12.05.2010 u/s 78[1][b] read with Section 73EA(ii) of the Maharashtra Cooperative Societies Act, 1960. That order has been quashed and set aside by the Hon''ble Minister on 29.9.2010.

2. Petitioner - Prashant in Writ Petition No. 1742/2011 was intervenor in appeal before the Hon''ble Minister. He also filed Writ Petition Nos.1741, 1743 and 957 of 2011 challenging identical orders passed by the Hon''ble Minister in appeals and in those appeals he was intervenor. One Narsingrao filed Writ Petition No. 2148/2011, but he was not intervenor or party in appeal before the Hon''ble Minister. One Sadashiv Mahajan filed Writ Petition Nos. 2149, 2150 and 956 of 2011. However, he was also not party before the Hon''ble Minister. In all these matters, Prashant Tayade was party intervenor. Letters Patent Appeal Nos. 450/2011, 458/2011, 456/2011 and 454/2011 are filed by Prashant Tayade and these appeals arise out of writ petitions in which he was party intervenor before the Hon''ble Minister. Letters Patent Appeal Nos. 455/2011, 451/2011, 453/2011 and 457/2011 are filed by the petitioners who were not party intervenor before the Hon. Minister.

3. In this background, we have heard Shri S. Paliwal, learned Counsel for respective appellants; Shri P.C. Madkholkar, learned Counsel for respondent nos. 3 and 4, Shri A.M. Ghare, learned Counsel for respondent nos. 3 and 4 in Letters Patent Appeal Nos. 453 and 456 of 2011. Mrs. Dangre, learned Additional Government Pleader has opposed the Letters Patent Appeals on behalf of respondent nos. 1 and 2.

All the Appeals are thus Admitted and taken up for final disposal.

4. Shri Paliwal, learned Counsel has contended that the respective respondent nos. 3 and 4 who happened to be the Directors of respondent No. 3 Bank were found defaulters and therefore, liable to be disqualified initially by NABARD, in its report. This has been confirmed by the District Deputy Registrar, and thereafter, the Divisional Joint Registrar passed an order u/s 73EA read with Section 78 of the Maharashtra Cooperative Societies Act, and removed these Directors. This order was questioned by the respective Director in appeal before the Hon''ble Minister u/s 152 of the Maharashtra Cooperative Societies Act. Prashant Tayade, one of the appellant before this Court was permitted to intervene in those appeals, and then the State Government through Hon''ble Minister has passed the impugned order dated 29.09.2010. He argues that as Prashant Tayade was intervenor in all the matters, Writ Petitions filed by him ought to have been held tenable and there was no question of absence of locus in him.

5. Without prejudice to this contention, he points out that the respondent No. 1 Divisional Joint Registrar is not in a position to challenge adverse orders of the Hon''ble Minister and hence, only in interest of purity of cooperative movement

challenge thereto needed to be examined on merits by this Court. He attempts to point out that the order passed by the Hon''ble Minister is not correct on merits, and hence the scrutiny by this Court was essential.

6. Appellants before this Court are Members of the Primary Cooperative Societies and their Society in turn is member of the respondent No. 3, which is District Central Cooperative Bank, and a Specified Society. The appellants along with other members and from amongst themselves, elect Managing Committee members on body of their Primary Cooperative Society and these committee members or Societies, then send its representative on Respondent No. 3, who participates in election to the Board of Directors of respondent No. 3. The said representative can then himself contest the election for board of directors of respondent No. 3 or then vote for any other person contesting from his constituency. He contends that thus, the petitioner has got a right and an opportunity to participate in the affairs of the respondent No. 3, through said representative.

7. Respondent No. 3 being Bank, releases funds to Primary Cooperative Society, who happen to be its members. The loan applications of members like petitioners/ appellants are cleared by their Primary Society and the requirement is then placed before the respondent No. 3. Respondent No. 3 after examining the same releases necessary funds for disbursement to its individual members. The funds thus given to Primary Cooperative Society and have reached the members, thus the learned Counsel argues that in this way, the appellant has also got interest in the administration of respondent No. 3.

8. To point out how similar provision and concept of person aggrieved are looked into by the Hon''ble Apex Court, he relies upon the judgment reported at Bar Council of Maharashtra Vs. M.V. Dabholkar and Others, . Judgment reported at P.S.R. Sadhanantham Vs. Arunachalam and Another, , is relied upon to contend that mere possibility of having large number of challenges is not enough to deny the remedy to the aggrieved person. The said phrase must be understood liberally in democratic set up. Brundaban Nayak Vs. Election Commission of India and Another, , a Constitution Bench judgment is relied upon to demonstrate before this Court, how the Courts below have to approach the issues like disqualification of elected persons. Consumer Education and Research Society Vs. Union of India (UOI) and Others, is pressed into service to show that the Hon''ble Apex Court has permitted any citizen to make an application to the Hon''ble President pointing out that a particular member of Legislature has incurred disqualification. Kedar Shashikant Deshpande Vs. Bhor Municipal Council and Others etc. etc., is relied upon to urge that such an application and effort by an individual does not raise any "lis" as such, and its nature is not adversarial. He contends that such issues which are of paramount importance in democratic set up, cannot be allowed to remain undecided. M.S. Jayaraj Vs. Commissioner of Excise, Kerala and Others, , is relied upon to show how the Hon''ble Minister has noted 3 categories of persons and how a person aggrieved, a stranger, a

busybody or a meddlesome interloper can be distinguished. He states that the appellants cannot be said to be persons in outer zone, and hence the petitions filed by them ought to have been entertained.

9. The Full Bench judgment of this Court reported at Narayan Bhoyar Vs. Yeotmal Zilla Parishad Karmachari and Rajudas Jadhav, is also relied upon to show that such issues of disqualification are very important and development of cooperative movement has to be in orderly manner. According to Shri Paliwal, learned Counsel the approach in the impugned judgment is, therefore, unsustainable and petitions filed need to be restored back for their adjudication on merits.

10. Shri Ghare, learned Counsel appearing on behalf of respondent nos. 3 and 4 in Letters Patent Appeal nos. 453 and 456 of 2011, has relied upon a judgment of Hon''ble Apex Court in the case of Bar Council of Maharashtra vrs. M.V. Dabholkar and others (supra), to show how words "person aggrieved" has been construed by the Hon''ble Apex Court. He contends that same analogy is applicable even in present matters. According to him, necessary facts to point out locus or status of respective appellant are absent in Writ Petitions and an effort has been made to put them on record after objection to maintainability of petitions was raised. He is relying upon a judgment reported at Daman Singh and Others Vs. State of Punjab and Others, , particularly paragraph No. 11 to urge that once the appellants become members of a Cooperative Society, their rights get abridged and they cannot put their individual grievance or aspirations above the interest of respondent No. 3 Society. He has invited attention to paper book of Letters Patent Appeal No. 452/2011, particularly page No. 117 and paragraph No. 5 to show that before the Hon''ble Minister, the appeals were not opposed. He further points out that orders passed by the Divisional Joint Registrar had the effect of removing 14 Directors while the appellants have filed Writ Petitions and Letters Patent Appeal only against 8 Directors. He contends that these facts show that the efforts made are not to further the alleged purity in cooperative administration, but the same have been filed out of political motive and malafide. He has supported the findings recorded by the learned Single Judge and tried to distinguish the precedents cited, by contending that the only question looked into there was about the competency of a person and forum where such grievance needed to be made. He contends that here the issue of disqualification is already examined by two authorities and hence, action contemplated under Cooperative Societies Act, has already been taken and over.

11. Mr.s. Dangre, learned Additional Government Pleader contends that the provisions of Section 78 of the Maharashtra Cooperative Societies Act, cannot be invoked by strangers. It is further contended that Section 73EA cannot be construed in background of Section 73FF[2] or Section 73FF[1][iv], hence, according to her the grievance of disqualification being made by the appellants is totally misconceived. She has also adopted the arguments of Shri Ghare and Shri Madkholkar, learned Counsel appearing for respondents.

12. Shri Madkholkar, learned Counsel has contended that in order to confer

jurisdiction upon learned Single Judge, only relevant provisions are Chapter XIIV Rule 18 of the Bombay High Court Appellate Side Rules. If the petition under Article 226 or Article 227 is to be looked into by the learned Single Judge, inter-se "lis" between the parties is must. Hence, locus necessary to maintain such petition before learned Single Judge cannot be equated with a locus to move Division Bench directly under Article 226. Without admitting, but by way of abundant precaution and in the alternative, he contends that the appellants could have at the most filed a public interest litigation and sought a mandamus. Here, as there was no "lis" between the appellant and respondent No. 4, the view taken by the learned Single Judge cannot be faulted with.

13. Judgment reported at ILR 1970 (II) (Delhi) 260 (Radhey Sham vrs. Lieutenant Governor and others) is relied upon by him for said purpose. He also relies upon judgment in the case of Daman Singh and others vrs. State of Punjab and others (supra), to urge that the appellant/petitioner is not even a voter of respondent No. 3 Bank. He further contends that as per byelaws of respondent No. 3, there are different constituencies and petitioner/appellants are not even from constituency from which the respective respondent No. 4 has been elected. As loan is never released by respondent No. 3 directly to any independent member, but it is always to some society, possibility of loan application of society of respective appellants, being placed for consideration before the committee of respondent No. 3 of which respondent No. 4 may be a member is, rather too remote and insufficient in law to confer any locus to maintain such petitions. Lastly he contended that the impugned judgment is only an order on pre-point, therefore, the Letters Patent Appeal is not maintainable.

14. In reply Shri Paliwal, learned Counsel has relied upon the judgment reported at Shah Babulal Khimji Vs. Jayaben D. Kania and Another, , particularly paragraph No. 82 to explain how the phrase "Judgment" needs to be understood. The judgment reported in the case of P.S.R. Sadhanantham vrs. Arunachalam and another (supra) is relied upon to show how in the matter of disqualification, wide discretionary powers are conferred upon responsible officers by law. He also relies upon the judgment in the case of Daman Singh and others vrs. State of Punjab and others (supra), to point out how facts therein were different, but still the public interest in cooperative movement has been found to be of paramount importance. He therefore, contends that the impugned judgment delivered by the learned Single Judge is unsustainable. The petitions filed by the respective appellants should be held to be maintainable and the matter should be placed before the learned Single Judge for fresh scrutiny on merits.

15. The objection regarding tenability of Letters Patent Appeal needs to be dealt with first. The question is answered by the Hon'ble Apex Court in its judgment reported in the case of Shah Babulal Khimji vrs. Jayaben D. Kania and another (supra), where the word "Judgment" used in Clause 15 of the Letters Patent (Bombay) fell for consideration. The Hon'ble Apex Court held that an order refusing appointment of receiver or to grant interim injunction is appealable .The

consideration in paragraph nos.79 and 82 show that a decision which affects the merits of question between the parties by determining some rights or liability is Judgment. Such order may be final, preliminary or interlocutory, but the determination thereby has to be final. In paragraph No. 120, the Hon''ble Apex Court has mentioned some of the principles which are useful in this respect. Illustration No. 5 in it states that an order deciding a preliminary objection to the maintainability of the suit on the ground of limitation, absence of notice u/s 80, bar against competency of suit against defendant, even though suit is kept alive, is amenable to appellate jurisdiction. Here facts looked into by us above show that the objection raised by the present respondents about maintainability of writ petitions has been finally decided and by upholding that preliminary objection, issue of their locus to challenge disqualification has also been concluded. The adjudication is, therefore, final and hence in accordance with the principles noted above, it is clear that these Letters Patent Appeals as filed, must be held to be maintainable.

16. We will now like to refer to the judgment of the Hon''ble Apex Court where its Constitution Bench was required to examine the validity of provisions of Punjab Cooperative Societies Act, 1961. In Constitution Bench judgment in the case of Daman Singh and others vrs. State of Punjab and others (supra), the Hon''ble Apex Court held sections regarding amalgamation of the cooperative societies valid. The Hon''ble Apex Court has found that notice to individual member of a cooperative society in the matter of such amalgamation was unnecessary, and once a person becomes a member of the Cooperative Society, he loses his individuality qua the society, and he possesses no independent right except those given to him by the Statute and Byelaws. The enactment authorizing compulsory amalgamation after notice to concerned societies was held valid and service of notice to concerned societies was insufficient to meet the requirements of principles of natural justice. In this background, in paragraph No. 10 the Hon''ble Apex Court has found that the very philosophy and concept of the cooperative movement is impregnated with the public interest and the amalgamation of Cooperative Societies when such amalgamation is in the interest of Cooperative Societies, is certainly in public interest or can only be to secure proper management of the Societies. Thus the Hon''ble Constitution Bench has given primacy to the cooperative movement and philosophy underlying it. In Narayan Gujabrao Bhoyar vrs. Yeotmal Zilla Parishad Karmachari Sahakari Pat sanstha Maryadit and another (supra), the Full Bench of this Court while considering the scheme of Section 73FF and Section 78[1] of the Maharashtra Cooperative Societies Act, in paragraph No. 8 has stated that when the question of interpretation of statutory provision crops up, it needs to be scrutinized in the light of the legislative scheme and the underlying object which prompted the legislation to enact that law. The purpose sought to be achieved needs to be borne in mind. The cooperation is a form of organization wherein persons voluntarily associate together as human beings on the basis of equality and work together for a common aid. The movement is backed by high ideas and

stands on moral background. It's development has to be in an orderly manner and in accordance with relevant directive principles of State policy enunciated in the Constitution.

17. In *Brundaban Nayak vrs. Election Commission of India and another* (supra), the Constitution Bench of Hon''ble Apex Court has considered the provisions of Articles 192[1] and [2] of the Constitution of India and declared the law as to who may refer question of disqualification of a sitting member of Legislature. The Hon''ble Apex Court has found that Article 192[1] provided that if any question arises, it has to be referred to the decision to the Governor. The argument of appellant that such question needed to be referred for decision to Governor and referring authority has to be Speaker of the Legislative Assembly, has been rejected as militating with said articles. The Hon''ble Apex Court has held that the question of disqualification has to arise and how it arises, by whom it is raised, in what circumstances it is raised, are not relevant for the purpose of application of that clause. Article 192[2] requires Governor to forward the question of disqualification to Election Commission for its opinion. The Hon''ble Apex Court has found that the object of Article 192 is plain and no person who has incurred disqualification specified in Article 191[1] is entitled to continue to be a member of legislative assembly of State.

18. In *Consumer Education and Research Society vrs. Union of India and others* (supra), the Hon''ble Apex Court has considered the similar issue and noted that the constitutional scheme in the matter of disqualification reveal that if a member of Parliament does not accept that he has incurred any disqualification, the question if raised, needs to be referred to the Hon''ble President of India for decision, and the decision can be reached after obtaining opinion of the Election Commission of India. Any citizen can make an application to the Hon''ble President and raise this question and it is only after the Hon''ble President decides that member has incurred alleged disqualification, the seat occupied by that member becomes vacant.

In *Kedar Shashikant Deshpande and others vrs. Bhor Municipal Council and others* (supra), the issue of disqualification under Maharashtra Local Authority Members'' Disqualification Rules, 1987 qua ward member of the Municipal Council, has been considered by the Hon''ble Apex Court. In paragraph No. 22 it has found that there is no lis between the person moving the petition seeking disqualification and the member who is alleged to have incurred disqualification. It has been held to be not an adversarial kind of litigation and, therefore, even if the petitioner withdraws the petition, it cannot make any difference, as the duty is cast upon the Chairman or the Speaker to carry out mandate of the constitutional provisions. In paragraph No. 32, the Hon''ble Apex Court has found that such issue of disqualification cannot and should not remain undecided, as it involves issue of public importance and not merely private rights and hence, Court can itself adjudicate upon and decide the same.

19. In paragraph No. 14 of judgment in the case of *P.S.R. Sadhanantham vrs.*

Arunachalam and another (supra), the Hon''ble Apex Court has considered the issue of locus and found that in so far as Article 136 of the Constitution of India is concerned, same needed to be construed liberally to achieve its purpose. The Hon''ble Apex Court has noted that in absence of an independent prosecution authority, such wider connotation was warranted. It has also reproduced its observations in case of Bar Council of Maharashtra vrs. M.V.Dabholkar and others (supra), in this respect and considered the possibility of a flood of litigation, but then, found it misplaced as "public resort to Court to suppress public mischief is a tribute to the justice system." In Bar Council of Maharashtra vrs. M.V. Dabholkar and others (supra), the 7 Judges of Hon''ble Apex Court has considered this aspect while interpreting the words "person aggrieved" used in several statutes. In paragraph No. 59 of this judgment, the above expression has been quoted.

20. In M.S. Jayaraj vrs. Commissioner of Excise, Kerala and others (supra), the Hon''ble Apex Court has considered the issue of "Standing" in the light of shift in its view. There a bidder in auction for privilege of vending foreign liquor within specified range failed to find out suitable place to locate his shop, and hence, he was permitted to have it in another range. A hotelier doing business in the latter range challenged that order before the High Court. Single Judge dismissed that writ petition and before Division Bench respondent raised an objection of locus standi, which was not taken seriously and Division Bench quashed the order permitting opening of shop in another range. The said respondent then approached the Hon''ble Apex Court and in this background the Hon''ble Apex Court noted that, in its judgment reported at The Nagar Rice and Flour Mills and Others Vs. N. Teekappa Gowda and Bros. and Others, and Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others, , much wider canvass was adopted and concept of locus standi has been expanding. As the Division Bench of High Court found the order of Excise Commissioner in violation of law, the Hon''ble Apex Court hold that, it would not be proper to nip the motion out solely on the ground of locus standi and to allow such order to operate. In paragraph No. 12 the Hon''ble Apex Court notes that while examining the objection as to locus standi, three categories of persons emerge - (1) a person aggrieved; (2) a stranger, and (3) a busybody or a meddlesome interloper. It is held that anybody belonging to third category is clearly distinguishable, as he interferes in things which do not concern him. It has then reproduced paragraph No. 38 of the judgment delivered by the Hon''ble 4 Judge Bench in Jasabhai Motibhai Desai (supra), to note that the distinction between the first and second category is not well demarcated. The first category has two concentric zones with solid central zone of certainty and a grey outer circle of lessening certainty, with an outermost nebulous fringe of uncertainty. The applicants falling in central zone are those whose legal rights have been violated, and therefore, stand in category of "person aggrieved". In the grey outer circle, the bounds which separate the first category from the second, intermix, interfuse and overlap increasingly in centrifugal direction. All persons in this outer zone are stated as "may not be

persons aggrieved". In paragraph No. 13, it has noted that a broad and wide construction in the wake of public interest litigation has been countenanced in later judgments and public spirited persons having faith in rule of law are rendering great social and legal services by espousing cause of public interest. Such citizens cannot be ignored on a technical or a conservative yardstick of rule of locus standi. It has noted that said concept is much wider and it take in it's stride any one who is not a mere busybody.

21. Section 73EA has been added to MCS Act by an ordinance with effect from 29.10.2007 which later became Act 11 of 2008. It is in pursuance of agreement signed by Union of India, State of Maharashtra and NABARD i.e., National Bank for Agriculture and Rural Development. It implements recommendations of Task Force headed by Prof. Vaidyanathan. The object behind amendment is to revitalize the cooperative credit structure. It is not in dispute that at the top of said structure in Maharashtra at State level is Apex Cooperative Bank while at district level it is District level cooperative bank like present respondent No. 3. At the bottom are the primary credit cooperative societies at village level. Individuals like petitioners can be enrolled as members by these primary societies and such individual/personal members can not be enrolled by District level or the State level society. Members of primary societies elect from amongst themselves the managing or executive committee of such primary society. This primary society is member of District level society and here primary societies of respective Appellants are members of Respondent No. 3. One of its managing committee members is sent by primary society to respondent No. 3 as its representative. Such representatives of all primary credit societies in a Tahsil constitute an electoral college and these representatives elect one from amongst them as director on board of directors of respondent No. 3 Bank to manage and administer it. Yavatmal district has 17 Tahsils and thus Respondent No. 3 has 17 directors on its Board. Respondent No. 4 in these appeals who was disqualified/removed by Respondent No. 2 and restored by Respondent No. 1 is one such board members. Appellants before us are the members of primary credit cooperative societies at village level. A citizen thus individually joins the cooperative movement only at primary level and his further participation therein at higher levels is ensured and regulated by MCS Act, 1960. They therefore have every right to strive for removing persons not qualified to continue as members from management of cooperative societies in which they have personal interest.

22. We therefore find that petitioners before the learned Single Judge can not be said to be total strangers or busybodies. In Bar Council of Maharashtra vrs. M.V. Dabholkar and others (supra), the Hon'ble Apex Court has considered the provision of Section 38 of the Advocates Act. Said provision expressly uses the words "person aggrieved". The Hon'ble Apex Court however, has found that the statutory right to appeal to it was not affected by mere fact that State Bar Council did not put in appearance before Bar Council of India. In Brundaban Nayak vrs. Election Commission of India and another (supra), Article 192 of the Constitution of India has been considered and language of that Article does not

show that any particular person has been clothed with right to raise a question of disqualification of member of house of Legislature of a State. In *Consumer Education and Research Society vrs. Union of India and others* (supra), provisions of Article 103 of the Constitution of India are looked into and there again the language is similar, as used in Article 192 above. In *Kedar Shashikant Deshpande and others vrs. Bhore Municipal Council and others* (supra), provisions of Maharashtra Local Authority Members' Disqualification Rules, 1987 along with relevant provisions of parent Act are looked into. The Hon'ble Apex Court has found that Section 3[1][a] and Section 3[1][b] operate on their own force. The Court observes that Section 7 obliges the Collector to decide the question upon reference made to him and reference is one of the modes of bringing the relevant information to his notice. Section 3[1][a] and Section 3[1][b] operate on their own force and the Corporator stands disqualified the moment the conditions therein are specified. The purpose of reference is limited and Section 7 does not contemplate the lis between two private parties. In this background, the defect in verification of such disqualification petition or about attesting annexures accompanying it is, held to be a matter between person who filed the disqualification petition and the Competent Authority before whom the petition is listed for hearing. The Hon'ble Apex Court has further observed that the Courts of law therefore, cannot ignore the mandate of legislature and hon'ble Apex Court applied the law for the first time by overruling the objection that plea of disqualification was being raised for the first time before it. The Hon'ble Apex Court found that it was not required to investigate or enquire into the facts at all, but was called upon to consider the legal effect of proved facts. Thus this approach of Hon'ble Apex Court in various judgments clearly show the primacy given to purity of administration in democratic set up. So far as the Maharashtra Cooperative Societies Act is concerned, the said aspect is emphasized by the Full Bench of this Court in *Narayan Gujabrao Bhoyar vrs. Yeotmal Zilla Parishad Karmachari Sahakari Pat sanstha Maryadit and another* (supra).

23. The provisions of Section 73EA of the Maharashtra Cooperative Societies Act disqualify a person from being a Director of District Central Cooperative Bank, like respondent No. 3. At this stage, we are not called upon to consider the dispute on merits and hence, we are not referring to disputed facts, as the same have not been looked into even by the learned Single Judge. Section 73EA is a peremptory provision made without prejudice to other provisions of the said Act or Rules made thereunder. Other provisions in said Act dealing with the disqualification are in Section 73FF. The said Section and Scheme of Section 78 are already explained by the Full Bench of this Court in judgment referred to us supra. Section 73EA does not stand on different pedestal. It therefore, is also an important yardstick prescribed by the State Legislature to check the functioning of the District Central Cooperative Banks and to prohibit unwarranted and anti-cooperative movement people from participating in management. Both Sections 73FF and Section 73EA do not prescribe how the dispute as to disqualification needs to be raised or decided. Basically it is for concerned societies to take

appropriate action and when societies do not take that action, State Legislature expects its officers like Divisional Joint Registrar to take its cognizance and decide the issue. Thus such dispute about disqualification can be brought to notice of Divisional Joint Registrar or any other competent Authority in this respect by any person. How it comes to knowledge or notice of such authority is not that important. If it comes to his knowledge, the authority has to take action in accordance with the provisions of Section 78 and pass appropriate orders either removing such person as disqualified or then removing the entire Committee, if entire committee is found to have incurred disqualification. Here the Divisional Joint Registrar has passed that order and disqualified respective respondent No. 4 on 12.05.2010. That formed subject matter of appeal at the instance of respondent No. 4 before the respondent No. 1.

24. This brings us to consideration of express language of Section 78 and it can be comprehended fully when read in contra- distinction with other provisions of Maharashtra Cooperative Act. Section 78 does not anywhere employ words "person aggrieved". Those words are used in Maharashtra Cooperative Societies Act while enabling a person aggrieved by adjudication by the Cooperative Court u/s 91 thereof to file appeal to the Maharashtra State Cooperative Appellate Court u/s 97. It is used even in Section 152A of that Act. However, such words are absent u/s 152 which permits filing of appeal against order of the Divisional Joint Registrar, or then in Section 154 which contemplates filing of revision against the appellate order or before the State Government. It is also not used in Section 78. The provision pertaining to disqualification under Maharashtra Local Authorities Members' Disqualification Rules, 1987 or then other enactments, including the Constitution of India mentioned by us above, clearly show that said provisions only require an issue to be brought to the knowledge of the competent Authority. The Legislature then expects such authority or Court to discharge obligations cast upon it by conducting necessary inquiry to find out the truth in such information. Hence, the concept like "person aggrieved" is unknown and foreign in so far as the concept of disqualification is concerned. In any case, as the provision for disqualification is made in larger public interest and to safeguard the democratic set up, by introducing such concepts, its sweep cannot be curtailed. It is therefore, obvious that the State Legislature has deliberately not used word "person aggrieved" in Section 78 and kept it wide to advance its purpose. The language of Section 78 shows that it is the opinion of the Registrar which springs it into action, and leads to steps prescribed for finding out whether any committee member has incurred disqualification. The material on the basis of which the said opinion can be reached is not expressly specified either in Section 78 or in any other provision. Hence, any person can put such material before Registrar and if Registrar on its scrutiny finds it proper to initiate action, law obliges him to proceed further accordingly. Legislation has deliberately enabled anybody to place such material before the concerned authority to guarantee purity of cooperative administration.

25. The petitioners before learned Single Judge and appellants before us are

admittedly members of the Primary Agriculture Credit Society which happens to be a member of respondent No. 3 Bank. The appellants are therefore, associated with cooperative movement and are interested in administration of Cooperative Societies. In accordance with the scheme of Maharashtra Cooperative Societies Act, they have representation in Board of Directors of respondent No. 3 Bank. This representation extended to them by law is statutory and cannot be labeled as insufficient or too remote. Hence, they have got interest in working of respondent No. 3. They cannot be therefore, viewed as strangers or mere meddlesome interlopers. Interest conferred upon them by the Maharashtra Cooperative Societies Act, is sufficient to enable them to maintain petition before learned Single Judge. As observed by the Hon''ble Apex Court in paragraph No. 12 of judgment in case of M.S. Jayaraj vrs. Commissioner of Excise, Kerala and others (supra), petitioners cannot be held to be persons in outer zone, even if concept like "person aggrieved" is to be used in present facts. Radhey Sham vrs. Lieutenant Governor and others (supra) relied upon by Shri Madkholkar, learned counsel also supports this view as petitioners possess some more interest or special interest over and above the interest of general public in the matters of respondent No. 3 bank. This interest is adequate to cloth them with status to initiate action u/s 78 and also to request this Court to examine validity of any order passed by statutory authority in the matter of disqualification of respective respondent No. 4.

26. Learned Single Judge has found that the petition filed was not a public interest litigation. Though petitions were not public interest litigation as technically understood, the provision for disqualification is in public interest and warranted a liberal approach in so far as the scrutiny into locus of petitioners was concerned. The Maharashtra Cooperative Societies Act has given each petitioner representation as per its scheme in Board of Directors of respondent No. 3 District Central Cooperative Bank, and therefore, it cannot be said that they have no right to assail the order of Hon''ble Minister setting aside the disqualification of director of respondent No. 3 bank. Because of that right only, one of the petitioners was allowed to intervene in appeals by the Hon''ble Minister. The petitioners need not be even parties to disqualification proceedings. The "lis" attempted to be canvassed by them needed to be examined in the background of the scheme of Maharashtra Cooperative Societies Act. That "lis" looked into by the Hon''ble Minister could have been looked into by the learned Single Judge of this Court in accordance with Chapter XVII Rule 18[3] of the Bombay High Court Appellate Side Rules, and hence the objection of Shri Madkholkar, learned Counsel that petitions before learned Single Judge were not maintainable, is misconceived. Filing of petition directly under Article 226 by those petitioners without questioning order of the Hon''ble Minister is/was not possible and hence, remedy resorted to by them cannot be said to be not available.

27. Other contention, that the appellants/petitioners have not challenged order of Hon''ble Minister passed in all appeals and their effort is to see that only particular Directors of respondent No. 3 are unseated, is not relevant at this

stage. This argument and its relevance or implication can be looked into by the learned Single Judge when the petitions are considered on merits.

28. In view of above discussion, the impugned common judgment dated 15.09.2011 delivered in Writ Petition Nos. 2149, 1741, 956, 957, 1742, 1743, 2148 and 2150 of 2011 is, therefore, quashed and set aside. Petitions filed by the present appellants before the learned Single Judge could not have been dismissed on the ground of absence of locus, hence, the same are restored back to file. All the Letters Patent Appeals are thus allowed. However, in the facts and circumstances of the case, there shall be no order as to costs.