

Shri. Masaidevi Vividh Karyakari ... vs The State Of Maharashtra on 2 April, 2025

Author: Vikram Nath

Bench: Vikram Nath

2025 INSC 436

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) NO. 4090 of 2024)

SHRI. MASAIDEVI VIVIDH
KARYAKARI SAHAKARI
SEVA SANSTHA MARYADIT
WAREWADI

...APPELLANT (

VERSUS

THE STATE OF
MAHARASHTRA & ORS.

...RESPONDENT (

WITH

CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) No. 6551/2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) No. 6086/2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) 6262/2024)

CIVIL APPEAL NO. _____ OF 2025

(@ SLP (CIVIL) No. 10032/2024)

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CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) No. 6619/2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) No. 6535/2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) No. 6308/2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) No. 4808/2024)

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CIVIL APPEAL NO. _____ OF 2025
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CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) No. 10030/2024)

CIVIL APPEAL NO. _____ OF 2025
(@ SLP (CIVIL) No. 5423/2024)

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CIVIL APPEAL NO. _____ OF 2025
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JUDGMENT

PRASANNA B. VARALE, J:-

1. Leave granted.

2. The challenge in the present appeals is to the common order dated 05.01.2024 in Writ Petition No. 8654/2023 and 42 other connected matters, whereby the High Court of Judicature at Bombay allowed the petitions preferred by the respondent no. 6 herein and in other connected matters and set aside the orders passed by the State of Maharashtra directing registration of the appellant-societies.

3. For the sake of brevity and as the legal issue involved is the same, we are referring to the facts of the W.P. No. 8654 of 2023 resulting into SLP (C) No. 4090 of 2024. The factual background is that on 13.01.2023, the appellant-society herein filed an application to the Respondent-Assistant Registrar for getting permission for registration of proposed society as a new Primary Agricultural Credit Co-operative Society (hereinafter 'PACCS'), as well as for opening a bank account. A scrutiny was done by the Scrutiny Committee (hereinafter 'Committee') wherein the application filed by the appellant-society was rejected on 13.04.2023.

The reasons given by the Committee for rejection of application are reproduced below:

- “1. The District Deputy Registrar and Divisional Joint Registrar, Kolhapur have not verified and ascertained as to whether the Revenue village of the aforesaid proposed society is within the purview of the existing society.
2. The information as to whether the Promoters – members of the proposed society are the members of other existing societies or not, has not been verified and submitted.
3. The Chief Promoter has not verified and ascertained crop-wise cultivated area of the Promoters – members in the proposed society as mentioned in the Crops Sowing Register.
4. The Kolhapur District Central Co- operative Bank has not given undertaking in respect of providing loan as per it's Crop-Loan Policy, to the Promoters – members of the proposed society or has not annexed the Undertaking to the effect that apart from the Kolhapur District Central Co-operative Bank, other Nationalised Banks or other Financial Institutions are going to provide loan to the proposed society.
5. The existing Credit Co-operative Society for the Revenue village of the proposed Society, has not issued No- objection certificate to the proposed Society for registration.
6. The existing Society has not submitted information about member- wise loans provided to the members to be transferred to the proposed Society.
7. The extracts of entries from the Crops Sowing Register and 7/12 extract in respect of the lands of the Promoters – members included in the Registration Proposal, have not been annexed to the Proposal for Registration. Therefore, the probable distribution of loan proposed by the Society cannot be ascertained.
8. The Chief Promoter has not submitted alongwith the proposal, the information as to whether the Promoters – members to be included in the proposed society are included in other existing society or not.
9. The self-explanatory opinion of the Divisional Joint Registrar, District Deputy Registrar and Taluka Assistant Registrar, Co-operative Societies, Kolhapur, as to whether said society shall be financially viable after registration or not has not been submitted.
10. The Chief Promoter of the proposed Society, on the basis of the certificate issued by the Gaon Kamgar Talathi, has certified that agricultural loan of the approximate amount of more than Rs.150.00 lakhs will be provided however, he has not enclosed with the proposal, the documents in support of providing the said loan and the documents for verification thereof and therefore, it cannot be ascertained that after registration, the proposed society will be able to provide loan of the amount of more than Rs.150.00 lakhs.
11. The loan provided by the existing society within the area of operation of the proposed society is less than the amount of Rs.150.00 lakhs and therefore, existing society itself is not financially viable.

Therefore, it would not be appropriate to allow registration of another society of the same type with same objectives within the area of operation of the existing society which itself is not financially viable.

12. On the basis of the documents in the Registration Proposal, the Assistant Registrar, Co-operative Societies, Tal. Shahuwadi, under his letter dated 11.04.2023, has appraised that the proposed society will not be financially viable and therefore, as per the instructions mentioned in the Government Resolution, it would not be appropriate to grant permission for registration of the said society.

13. Though the caveat has been filed in respect of the registration of the proposed society, as the society is not complying with the criteria mentioned in the Government Resolution dated 23.09.2013 and as the said proposal is not financially viable, the proposal of the aforesaid proposed Society has been rejected and therefore, the question to give an opportunity of hearing to the Caveator at the level of the Scrutiny Committee, does not arise at all.

14. Thus, it is found that the existing society itself is not financially viable.

Therefore, it would not be appropriate to allow registration of another society of the same type with same objectives within the area of operation of the existing society which itself is not financially viable. Hence, considering the aforesaid aspects and on perusing the documents in the proposal, it does not appear that after registration, the proposed society will be financially viable in future. Similarly, as per the instructions mentioned in the Government Resolution, as the proposed society is not complying with the financial criteria required for the registration thereof, it is unanimously resolved that the registration proposal should be rejected.”

4. Being aggrieved by the order of the Committee, the appellant-society preferred an appeal under Section 152 of the Maharashtra Co-operative Societies Act, 1960 (hereinafter ‘the 1960 Act’) before the State. Respondent No.6 herein, who is a member of Salashi Vividh Karyakari Sahakari (Vikas) Seva Saunsta Maryadit Salashi, a registered co-operative society having its jurisdiction in Salashi and Warewadi, District Kolhapur, got himself impleaded as a respondent-party in the appeal proceedings.

5. The Minister, Co-operatives, on behalf of the State, vide its order dated 28.06.2023, allowed the appeal filed by the appellant herein and, thereby, set aside the Order dated 13.4.2023 passed by the Committee. It was also directed to the Respondent-Assistant Registrar to register the appellant-society. The reasoning given for allowing the appeal is reproduced below:

“The applicant-society has primarily sought an independent development society for its independent revenue village, based on the directives in the Government Decision and its amendment that there should be only one primary agricultural credit society in an independent revenue village. The Primary Agricultural Credit society of the neighbouring village of the applicant- society has not objected to the proposal of the applicant-society. It does not happen and the ratio of risk assets to capital also does not decrease. The applicant-society has argued that as per the lending policy of the

bank, the loan can be provided as per the norms. Moreover, the applicant-society has asserted that as per the policy of the Central Government, the applicant- society can do about 152. types of business other than loan distribution and thereby become profitable. It cannot be said that it is wrong. Apart from this, it cannot be denied that the applicant- society can allocate loans by taking loans from self-funds and other banks as well.....

As the village of the applicant-society is hilly area and there is no adequate transportation facility, it is difficult and troublesome to take membership of a society established in another village and go to that village to avail the services of the society. Also Primary Agricultural Credit Institutions in neighbouring villages are also applicants seem unable to avail the services of the society. Therefore, the government decision based on the decision dated 16.01.2015 that a new agricultural credit society can be registered in a separate revenue village; the applicant submits that, the proposal for registration filed by the society is reasonable and proper.....

However, the intervening-applicant has not submitted any figures showing that the cash value of the existing society or the ratio of risk assets to the capital would decrease after the registration of the applicant society.....

The Respondent no.4 viz The Assistant Registrar has checked the records in his office that there is no registered primary agricultural credit society in the independent revenue village where the applicant-society has jurisdiction. Therefore, a report has been given while submitting the proposal of. the applicant-society to the senior office that the registration of the applicant-society will not adversely affect the financial condition of the working primary agricultural credit society. Adequate contradiction has not been made by the intervention-applicant.....

This means that the registration the applicant-society will not adversely affect any existing society. Also, within 3 years from the date of registration of the applicant-society, share capital of Rs.5/- lakhs and the applicant-society is ready to give a guarantee to start a new business in one year.”

6. Aggrieved by the order of the State, the respondent no.

6 herein filed a Writ Petition before the High Court of Judicature at Bombay praying to set aside the order dated 28.06.2023 passed by the State.

7. The High Court, vide the impugned common order, allowed the appeal of the respondent no. 6 herein and observed the following:

“9. I have perused the impugned order. The Petitioners were intervenors before the State Government. Neither the issue of locus standi of the Petitioners was raised before the State Government nor the State Government recorded finding in the

impugned order/s that the Petitioners do not have any right to object to the registration of the contesting Respondents as multipurpose co-operative societies. The only contention which was raised was that due to registration of the proposed societies there will not be any adverse impact on the financial condition of the existing societies.

10. Considering the facts and circumstances and in view of the findings recorded by the scrutiny committee, I am inclined to accept the submission that the Petitioners who are neither existing co-operative societies or members of the existing co-operative societies lack locus standi to challenge the impugned orders.

11. As regards merits, the scrutiny committee who is in the form of expert body after scrutinising the documents filed in support of the application/s made by the contesting Respondents has recorded the specific finding that the. proposed societies would not be financially viable. The scrutiny committee has further held that the proposed societies do not fulfil the requisite financial parameters laid down in the Government Resolution dated 23 September 2013. There is no finding in the impugned order/s that the findings recorded by the scrutiny committee are perverse.

12. Apart from the above, as per, the Government Resolution dated 14 February 2017 it is necessary for the proposed societies to have share capital of Rs.5 Lakhs at the time of applying for registration. It appears from the impugned order/s that the said condition is also relaxed on the basis of undertaking of the contesting Respondents that they would raise the share capital of Rs.5 Lakhs within one/three years from the date of registration of the society.

13. Considering the overall facts and circumstances, the order/s impugned cannot be allowed to stand as the same are contrary to proviso to Section 4 of the Maharashtra Co-

operative Societies Act.

14. The Petitions are allowed. The order/s impugned in the present Petitions are set aside. All consequential actions are set aside”

8. Feeling aggrieved and dissatisfied with the impugned order passed by the High Court, the appellants are before us.

9. We have heard the learned senior counsels and counsels for the parties and perused the material on record.

10. The arguments advanced by the learned Senior Counsel for the appellants are summarised hereunder:

10.1 That the appellant is the first and only Co-operative society in the said Revenue Village, a fact that has been acknowledged by the Assistant Registrar as well.

10.2 That it is practically not possible for any society to have share capital of Rs. 5 lakhs at the time of applying for registration. In this regard, an undertaking had been submitted by the appellant-

society that they would raise the required share capital of Rs. 5 lakhs within one to three years from the date of registration of society and the appellant has also undertaken the compliance of this term before this Court.

10.3 That the appellant-society has made a genuine effort to fulfil all the required documents at the time of filing the application for registration. 10.4 That the State in its Order clearly stated that there are multiple reasons which can destabilize the financial status of a Society, therefore, because of only one parameter i.e. loan distribution to the crops, the registration of the society cannot be denied.

10.5 That the respondent no. 6 does not have any locus-

standi to challenge the Order passed by the State. 10.6 That the Society, of which present respondent no.

6 is a member, has already given a 'No-Objection- Certificate' to the present appellant-society and an individual member cannot take contrary stand to the society of which he is a member until and unless that society passes resolution to that effect. 10.7 That the High Court, on one hand, accepted that the petitioners therein did not hold any locus standi yet, on the other hand, allowed the Writ Petition filed by them.

10.8 That the chart indicating the population of each revenue village, submitted by the respondent no. 6, is as per the 2011 census and it cannot be ignored that the population in these villages must have grown in the past 13-14 years.

10.9 That any co-operative society can manage 152 kinds of businesses apart from giving loan. Therefore, it is unfair to ignore all others important aspects which helps a society to run successfully. 10.10 That the minimum number of the membership for registration of a new society is 75 and the present appellant-society has given the list of 150 members. Therefore, the appellant-society is very much ahead of the minimum required number of memberships.

11. Per contra, the arguments advanced by the learned Senior Counsels and counsels for the respondents are stated as below:

11.1 That the eligibility for the purpose of registration cannot be isolated from the impact on an existing society, if any. The appellant herein has failed to satisfy the threshold criteria and conditions to establish its own viability.

11.2 That it is not open to the appellant to now seek to by-pass the expert Scrutiny Committee by contending for the very first time before this Court that the Committee was constituted without any authority and/or it lacks jurisdiction to scrutinize the appellant's proposal for its registration as a PACCS.

11.3 That Scrutiny Committee's Order shows its in-

depth examination of the appellants' proposals and the Committee's detailed findings which militate against the eligibility of the appellants for registration.

11.4 That the order passed by the State is ex-facie perverse and unsustainable as it has allowed the appellants' registration without fulfilling the most basic and mandatory pre-requisites for registration.

11.5 That the respondent no. 6, being a member of an existing society, is vitally affected inasmuch as the registration of the appellant-society could lead to destabilizing the existing society and even lead to its closure.

11.6 That the performance of credit/loan disbursement of existing primary credit cooperative societies would show that even they are hardly in a position to achieve the minimum target fixed by the Government Resolution and, in such circumstances, establishment of any proposed Credit Cooperative Society in the adjacent village would have disastrous effect on the existing credit co-operative societies.

11.7 That the NOC relied upon by the appellant which is alleged to be given by the society, of which respondent no. 6 is a member, is unauthorised and there is no mention of it being issued to the appellant in record and proceedings of the abovementioned society.

11.8 That the appellant has approached this Court with unclean hands as it is obvious that the appellant has sought to artificially inflate its membership by showing dead persons so as to show a membership with larger land holdings in order to meet the viability criteria. This conduct shows the mala fides of the appellant.

12. Before delving into the analysis of the facts of the case, we find it pertinent to mention the relevant provisions of the 1960 Act and the Government Resolutions dated 23.09.2013 and 14.02.2017.

13. Chapter II of the 1960 Act deals with the registration wherein Section 4 and Section 6 are the specific relevant provisions for the purpose of this matter and are reproduced as below:

“4. Societies which may be registered:— A society, which has as its objects the promotion of the economic interests or general welfare of its members or of the public, in accordance with co-operative principles or a society established with the object of facilitating the operations of any such society, may be registered under this Act:

Provided that, no society shall be registered if it is likely to be economically unsound, or the registration of which may have an adverse effect on development' of the co-operative movement, or the registration of which may be contrary to the policy directives which the State Government may, from time to time, issue.

6. Conditions of registration:-

(1) No society, other than a federal society, shall be registered under this Act,. Unless it consists of at least ten persons or such higher number of persons as the Registrar may, having regard to the objects and economic viability of a society and development of the Co-

operative movement, determine from time to time for a class of societies (each of such persons being a member of a different family), who are qualified to be members under this Act, and who reside in the area of operation of the society:

Provided that, a lift irrigation society consisting of less than ten but of five or more such persons may be registered under this Act.

...” [Emphasis supplied]

14. Now, it will be useful to refer to the Government Resolutions to which reference is made in the impugned judgment of the Hight Court.

15. The Government Resolution dated 23.09.2013, which has been produced as Annexure P-1 before us, sets out the newly revised criteria for registration of PACCS and the revised condition nos. 4 and 5 read as follows:

“Condition No.4: The number of members (accounting members) of a newly registered primary agricultural credit cooperative should be at least Condition No. 5.: For the purpose of scrutiny of the proposal of primary agricultural credit cooperative society, committee will be formed as under mentioned for the purpose of inspection of financial ability.”

16. The Government of Maharashtra issued another Government Resolution dated 14.02.2017, in furtherance of which the Government Corrigendum was issued, and it reads as follows:

“1) There should preferably be only one primary agricultural credit cooperative in a revenue village. However, in villages where there is scope for registration of more than one society, taking into account other criteria of economic viability, more than one society can be registered. 1A) A Scheduled Primary Agricultural Credit Co-operative Society before its registration; it must have a minimum of Rs.5 lakh share capital and it is essential to do so.

....” [Emphasis supplied]

17. A conjoint reading of Section 4 and condition No.1 of Section 6 of the 1960 Act makes it very clear that the economic viability of the society is a pre-requisite or basic condition for grant of registration to the society.

18. Further, condition No. 5 of the Government Resolution dated 23.09.2013 makes it unambiguous that a Scrutiny Committee was to be set up/established specifically for the purpose of inspection of financial ability of a prospective society.

19. Additionally, Criteria 1A of the Government Resolution dated 14.02.2017, further clarifies the said pre- requisite of economic viability of the societies by explicitly stating that a minimum of Rs. 5 lakhs share capital is to be maintained by applicant society.

20. It is in the backdrop of the above referred provisions of the 1960 Act as well as the Government Resolutions that we have to peruse the order of the Scrutiny Committee which examined the proposal of the appellant-societies for registration.

21. The Committee in the opening part of its minutes records as follows:

“...to scrutinize the registration proposal of this scheduled society and to check the financial capability...”

22. This supports the respondents’ contention that it was the duty of the Committee to check the financial capability of the appellant-societies and it was an expert Committee set up specifically to check the eligibility criteria of the applicant societies.

23. We have already referred to the reasons assigned by the Scrutiny Committee for rejection of the application in earlier part of this judgment at Paragraph 3. The Paragraphs 4, 10 and 11 of the Committee’s order therein noted the findings of the Committee with regard to the appellant-society not meeting the financial requirements in the form of a lack of bank guarantee, lack of documents to support provision of bank loan etc. It was in furtherance of these specific findings that the Committee in clear words noted that:

“the petitioner society fails to comply with the criteria of economic viability and state it would not be advisable to establish society of the same type and with the same purpose in the area of operation of an unprofitable working society”

24. Thereafter, the State while deciding the appeal seems to be impressed by the appellant’s submission that the registration of the proposed society is not adversely affecting the existing society as there was no objection raised by the existing society.

25. In our considered opinion, the State, while deciding the appeal, completely ignored the basic criteria or the pre-requisite for the registration of society i.e. the economic viability of the society.

The said criteria and pre-requisites had been laid down by the State itself through its various Government Resolutions. As such, it could not have taken a decision contrary to its own guidelines.

26. It will not be out of place to state that the State was much impressed by the submissions advanced on behalf of the appellant-society that any Cooperative Society can manage 152 kinds of businesses apart from giving loans.

27. However, the appellant had made such submissions without placing any supporting material on record before the Scrutiny Committee to show as to what kind of other 152 businesses the appellant-society would undertake and how the appellant-society is economically viable. Yet, the State accepted the hypothetical claim of the appellant-society. In our opinion, in doing so, the State has essentially ignored the aspect of economic viability.

28. Admittedly, the Committee had found that there was nothing in the proposal submitted by the appellant- society to substantiate the conditions of financial health as provided in the Government Resolution dated 14.02.2017. There was merely a bald statement that the Kolhapur District Central Cooperative Bank is going to support the proposed appellant-society but, as noted by the Committee, there was no letter of undertaking that was attached to that effect.

29. Thus, it is apparent that there was absolutely no material on record before the Committee to show that the appellant-society was in a position to comply with the pre-requisites as referred to in the Government Resolution dated 14.02.2017. The Committee had, therefore, rightly rejected the application for registration.

30. It may not be out of place to state that if a society is unable to comply with the pre-condition or pre- requisite in regard to the economic viability of the society, allowing the registration of such a society which might not even be able to function, it may adversely affect the members of the society and, ultimately, it would be frustrating the very object of the establishment of the said society.

31. It must be noted that the constitution of the Committee and the examination of the proposal by the Committee is a vital part of the Policy Directives of the State Government which is required to be complied with conditions under Section 4 of the 1960 Act.

Therefore, ignoring the findings of the Committee and allowing the registration of the society when the appellants have been unable to point out any perversity in the said findings shall lead to an unjustifiable interference in the Committee's Order.

32. Further, it must be noted that the State Government may use its discretion for relaxation of conditions. However, such a discretion cannot be used to frustrate the very object of the Act. Such a power of relaxing the necessary pre-requisites could have been made only through the means of a Government Resolution and not at the whims of the State in an appeal which essentially led to by-passing the eligibility criteria set out by the Government through its multiple Resolutions. Once such an eligibility standard has been set out by the Government, the only proper route to introduce any alteration or relaxation of these conditions would have been through a subsequent Government

Resolution. In the present case, by relaxing the pre-requisite condition relating to financial viability, the State allowed the registration of the society, which in our opinion, resulted in nothing but frustrating the very object of the Act.

33. Lastly, with respect to the locus standi of the respondent no. 6, such an argument by the appellants shall not restrain interference by this Court or the High Court in the matter when there is patent illegality in the State's order which requires interference by the Courts of law.

34. Therefore, considering all these aspects, we are unable to find any fault in the order passed by the High Court. The High Court of Judicature at Bombay has rightly allowed the petition and set aside the order passed by the State.

35. Accordingly, the appeals stand dismissed, and the impugned order of the High Court is upheld.

36. Pending application(s), if any, shall be disposed of accordingly.

37. No order as to cost.

.....J. [VIKRAM NATH]J. [PRASANNA B. VARALE]
NEW DELHI;

APRIL 2, 2025.