Maharashtra Co-operative Societies Act, 1960 (with rules)

Lecture and presentation by
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Definitions

- **Bonus** - Payment made in cash or kind out of the profits of a society to a member or to a person who is not a member on the basis of his contribution to the business of the society but does not include any sum paid or payable to the employee of the society under the Payment of Bonus Act, 1965. [Sec 2(4)]
Definitions

• **Bye laws** – means bye laws registered under the Maharashtra Cooperative Societies Act, 1960 and include registered amendments therein. [Section 2(5)]

• **Central Bank** – means a cooperative bank the object of which include the creation of funds to be loaned to other societies. [Section 2(6)]
Definitions

• **Committee** - means the committee of management or board of directors in which the management of the affairs of the society is vested under section 73 of the Maharashtra Cooperative Societies Act, 1960

[Section 2(7)]
Definitions

• **Cooperative Bank** - means a society which is doing the business of banking as defined in Section 5(1)(b) of the Banking Regulation act, 1949

[Section 2(10)]
Definitions

• **Cooperative Appellate Court** - means the Maharashtra Cooperative Appellate Court constituted under the Maharashtra Cooperative Societies Act, 1960

[Section 2(10-ai)]
Definitions

• **Cooperative Court** – means a court constituted under the Maharashtra Cooperative Societies Act, 1960
  
  [Section 2(10-aii)]

• **Cooperative Year** – means a year ending on 31\textsuperscript{st} March for balancing of accounts. The Registrar may fix any other date as year end for any society or class of societies
  
  [Section 2(10-aiii)]
Definitions

• **Dividend** - means the amount paid, out of profits of a society, to a member in proportion to the shares held by him [Section 2(11)]
Definitions

- **Member** - means a person joining in an application for the registration of a co-operative society which is subsequently registered.

  Or

  A person duly admitted to membership of a society after registration and includes a nominal, associate or sympathizer member.

  [Section 2(19)(a)]
Definitions

- **Associate member** - means a member who holds jointly a share of a society with others but whose name does not stand first in the share certificate  
  [Section 2(19)(b)]

- **Nominal member** - means a person admitted to membership as such after registration in accordance with the bye-laws  
  [Section 2(19)(c)]
Definitions

- **Officer** – means a person elected or appointed by a society to any office of the society according to its bye-laws to give directions in regard to the business of the society

Contd. ......
Definitions
- Officer (contd.)

and includes a Chairman, Vice-Chairman, President, Managing director, Manager, Secretary, Treasurer and Member of the committee and any other person elected or appointed under this Act, the Rules or the bye-laws

[Section 2(20)]
Definitions

• **Recovery officer** – means any person empowered to exercise, in any district, the powers of Registrar under section 156

Rule 2(h)
Definitions

• **Sale officer** - means an officer empowered by the Registrar, by general or special order, to attach and sell the property of defaulter or to execute any decree by attachment and sale of property

  *Rule 2(j)*
Definitions

• Working capital - means funds at the disposal of the society inclusive of paid up share capital + funds built out of profits + money raised by borrowing and by other means

[section 2(31)]
Registrar

- State Govt. appoints the Registrar of Co-operative Societies (RCS) for the State and also appoints persons to assist him for the local areas or the State as may be specified and confer by specific order on any such powers of the RCS

Section 3
Registration of Society

• A society may be registered which has as its objects,
  - promotion of the economic interests or general welfare of its members or of the public
  - in accordance with the Co-Operative principles

• A society may be registered which has the object of facilitating the operations of any other society

Section 4
Conditions of registration
(other than Federal and Agri. related societies)

- At least 10 persons who are qualified to become member as per the Act
- Each of such person should be from different family
- Such persons should be residing within the area of operation of the society
- Word ‘Limited’ shall be the last word of the name of the society

Section 6
Application for registration

• Application in prescribed form signed by at least 10 persons

• Signatory to the application should be member of the committee of the society and should be authorized by the committee by resolution to sign on behalf of the society

Contd. .....
Application for registration

- Application is accompanied by four copies of the proposed bye-laws
- Copy of the resolution authorizing the persons to sign the application for registration must be attached
- Prescribed fee must be paid

Section 8 r. w. rule 4
Registration

• If the Registrar is satisfied that,
  - proposed society has complied with the provisions of the Act, the rules and the applicable other laws
  - policy directions issued by the State Govt. are complied with
  - Proposed bye-laws of the society are not contrary to the Act. Registrar may ask to add missing points, if any, as per rule 8 in bye-laws
    then he shall register the society and its bye-laws within two months from receipt of application for registration

Section 9(1) r. w. rule 5 and 8 ...... contd. ....
Registration

• If the Registrar fails to dispose the application for registration within said period of two months, he shall forward the application to his next higher authority within 15 days of expiry of two month period.

• If Registrar himself is the registering authority he shall forward the application to the State Govt.

Section 9(2) r. w. rule 5 .... Contd. ....
Registration

• Such higher authority shall dispose of the application within two months from receipt by it.
• But in failure to do so it shall be deemed that the society and its bye-laws are registered. In such event the Registrar shall issue the registration certificate for the society within 15 days from expiry of two month period.

Section 9(2) r. w. rule 5
Registration - Refusal

• If the Registrar refuses the registration he shall immediately communicate his decision with reasons for refusal.

• The said communication shall be sent to the person whose signature appears first on the registration application.

Section 9(3) r. w. rule 7
Amendment to bye-laws

• No amendment of the bye-laws shall be valid until registered under the Act.
• Amendment should be passed in the General Meeting, where the issue was on agenda, notice of proposed amendment is given to the members and resolution is passed by not less than 2/3 members present and voting

Section 13 r. w. rule 12 ... Cont. ....
Amendment to bye-laws

• Resolution passing the amendment should be forwarded to the Registrar within two months from the date of meeting.

• Every application for amendment must be disposed of by the Registrar within two months.

• If not so disposed same procedure as it is for application for registration of the society

Section 13 r. w. rule 12
Registrar’s powers to direct amendment in bye-laws

• If the Registrar is of the view that in the interest of the society the bye-laws must be changed, he can direct in prescribed manner (Form - E) to make amendments in the bye-laws within a given time but such time shall not be more than 2 months. He has to give exact amendment that the society needs to make.

Section 14(1) r. w. rule 13(1) - Form E
Society not effecting amendment as directed

• If the society fails to make the amendment within specified time the Registrar may after giving hearing to the society register the amendment. He shall issue to the society a copy of the amendment certified by him. In such event it shall be deemed that the society has made the amendment.

Section 14(2) r. w. rule 13(2),(3) and (4)
Change of name of society

• A society may change its name by passing a resolution at the General Meeting and also proposing amendment in the bye-laws for that purpose.

• This needs approval from the Registrar and it is notified in Official Gazette.

• Change in name does not affect the rights or liabilities of the society and they continue in new name.

• Certificate of registration is amended to that effect by the Registrar

Section 15 r. w. rule 14
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Rights of Member

- Every member of a society shall be entitled,
  - To inspect, **Free of cost**, At society’s office,
    During office hours or at any time fixed by the society,
    1. A copy of the Act and rules, 2. Bye-laws,
    3. Latest audited annual balance sheet and profit and loss account, 4. List of members of committee, 5. Register of members, 6. Minutes of General Meeting, 7. Minutes of Committee Meeting and 8. Portions of the books and records in which his transactions with the society are recorded

Section 32(1) r. w. rule 27 and 30 .... Contd.....
Rights of Member

- Society shall furnish to a member,
  - On request in writing,
  - Payment of such fees as may be prescribed and
  - Within one month from date of payment of fees

1. A copy of any of the documents mentioned at Section 32(1)

Section 32 (2) r. w. rule 27 and 30
Deduction from salary to meet claim of society

- A member of the society may execute an agreement in favour of the society
  - That his employer shall be competent to deduct from the salary payable to him by the employer
  - Such total amount payable to the society and in such installments as specified in the agreement
  - And to pay to the society amount so deducted in satisfaction of the debtor demand of the society

Section 49(1) .. Contd...
Deduction from salary to meet claim of society

• To demand the deduction from the employer as per the agreement executed by the employee, a copy of such agreement duly attested by the officer of the society shall be forwarded by the society to the employer.

Section 49(1) .. Contd. ..
Deduction from salary to meet claim of society

• On receipt of a copy of such agreement the employer shall make the deduction in accordance with the agreement and pay the amount so deducted to the society.

• Such deduction and payment from the salary shall be treated as if it were a part of wages payable under the Payment of Wages Act, 1936.

Section 49(2) .. Contd. ..
Deduction from salary to meet claim of society

- If the employer fails to deduct the amount from the salary or deducts but does not pay to the society, the employer shall be personally liable for payment of requisitioned amount.
- If deduction is made but payment is not done to the society, the employer is liable to pay interest to the society, from date of deduction to the date of payment to the society, at 1.5 times the interest charged by the society to the member.

Section 49(3) .. Contd. ....
Deduction from salary to meet claim of society

- Any amount kept unpaid by the employer after the requisition by the society can be recovered by the society from the employer as if recovery of land revenue, after a certificate of recovery is issued by the Registrar.

  ..... Section 49(3)

- Provisions of section 49 do not apply to employees of Railway, mines and oil fields.

  ..... Section 49(4)
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Committee

Management of every society shall vest in a Committee (Board of Director) constituted in accordance with, and it shall exercise powers and perform duties as conferred or imposed by,

the Act,
The Rules and,
The Bye-laws.

Section 73(1)
Liability of Committee Member

Members of the Committee are jointly and severally responsible for

1. All decisions taken by the committee during its term relating to business of the society and

2. All the acts and omissions detrimental to the interest of the society

Section 73(1AB)
Bond by the committee member

- Every member of the committee has to execute a bond on stamp paper in prescribed manner, about his liability for acts or omissions detrimental to the bank, within 15 days of assuming the office.

- Member failing to give such bond is deemed to have vacated the office of member of a committee

Section 73(1AB) r. w. rule 58, form M-20
Member when not liable

**The member is not liable as per the bond to a resolution / decision when the member
- Has expressed dissenting opinion which is recorded in the minutes
- Was not present when the resolution was passed or decision was taken and the member has not confirmed the minutes

** The dissenting member may communicate his dissent to the Registrar within 7 days from the date of resolution / decision

Section 73 (1AB)
Maximum number of members on the Committee

- Considering the area of operation, subscribed share capital or turnover of the society the Registrar may by special or general order published in the Official Gazette prescribe the maximum number of members in a society or class of societies

Section 73(2)
Disqualification for membership of committee

Section 73FF(1)(vii)

• A member is disqualified if he/she has more than two children

• But no disqualification if more than two children prior to 7/9/2001 and there is no addition after 7/9/2001 or one year thereafter

Contd. ....
Disqualification for membership of committee

Section 73FF(1)(vii) - explanation

• (a) If a couple has one child on or after 7/9/2001, any number of children born out of a single subsequent delivery

• (b) Child does not include an adopted child or children

Contd. ....
Disqualification for membership of committee

Section 73FF(2)

• A member who has incurred any disqualification u/s 73FF(1) shall cease to be a member of the committee and his seat be deemed to be vacant
Dispute - Section 91

• Any dispute touching the business of the society shall be referred by any of the parties to the dispute to the Co-operative Court if both the parties thereto are one or the other of the following

1. society
2. a member of society
3. a surety of the member

Contd. ....
Dispute – Section 91

• Provided that, any proceeding for the recovery of the amount as arrears of land revenue on a certificate granted under section 101(1) of the Act or the recovery proceeding by the Registrar or by any such authorized officer who is empowered under section 156(1) of the Act shall not be a dispute under section 91

Contd. .....
Dispute – Section 91

- Following are the disputes within the meaning of section 91
  1. A claim by or against the society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member
  2. A claim by a society for any loss caused to it by a member, past member or deceased member or by any officer, past officer or deceased officer
Limitation

• The period of limitation for the dispute to be referred to the Co-operative Court (u/s 91) shall be from,

1. In case of past member or deceased member for recovery of dues from him, from the date he ceases to be a member or from his death

2. For any other dispute as per the provisions of the Limitation Act, 1963

Section 92
Recovery of arrears as land revenue – Section 101

- On making an application, along with the statement of accounts in respect of arrears, by the Co-operative Bank to the Registrar, the Registrar may after such inquiries as he may deem fit, grant a certificate for recovery of the amount stated therein.

Contd. ......
Recovery of arrears as land revenue - Section 101

• The certificate for recovery granted by the Registrar shall be final and conclusive proof of the arrears stated therein.

• The recovery of the amount stated in the certificate shall be recoverable as a land revenue recovery.
Registrar’s powers for recovery - Section 156

• The Registrar or the officer empowered by him (SRO) may recover,
  1. Any amount due under a decree or order of a Civil Court obtained by a society
  2. Any amount due under a decision, award or order of the Registrar, Co-Operative Court, Co-Operative Appellate Court or Liquidator
  3. Any sum awarded by way of costs under the Act

Contd. .....
Registrar’s powers for recovery – Section 156

4. The amount to be recovered as stated above, along with interest, cost etc. shall be recoverable by the attachment and sale or by sale without attachment of the property of the person against whom such decree, decision, award or order has been obtained or passed.
Thank you

Lecture
And
Presentation
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