

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 191 OF 2015

MR. JAGANATH PANDURANG SINARI. ... Petitioner
Versus
EDC LTD. @ ECONOMIC DEVELOPMENT
CORPORATION OF GAO, DAMAN AND DIU
LIMITED AND 3 ORS., ... Respondents

Mr. Rishabh Shah and Mr. Nitin Pawar, Advocates for the Petitioner.
Mr. S. D. Lotlikar, Senior Advocate with Mr. Nikhil Vaze, Advocate
for the Respondent no. 1.
Mr. A. Prabhudesai, Addl. Government Advocate for the Respondent
nos. 2 and 3.

Coram:- F. M. REIS &
M. S. SANKLECHA, JJ.

Date:- 20th April, 2015

ORAL ORDER

Heard Shri Rishabh Shah, learned Counsel appearing for the
Petitioner, Shri S. D. Lotlikar, learned Senior Advocate appearing for
the Respondent no. 1 and Shri Prabhudesai, learned Addl.
Government Advocate, appearing for the Respondent no. 2.

2. Upon hearing the learned Counsel appearing for the Petitioner,
the admitted facts of the case, inter alia, disclose that there are
proceedings initiated by the Respondents for the recovery of the dues
under the Recovery of Debts Due to Bank Act, 1993.

3. Learned Counsel appearing for the Petitioner pointed out that the
Petitioner is entitled to know the norms and the policies of the

Respondent no. 1 to examine as to whether the guidelines issued by the Reserve Bank of India in respect of small scale Industries are followed by Respondent no. 1. Learned Counsel further pointed out that though the proceedings are pending before the Tribunal nevertheless, according to him, the scope of the jurisdiction of the Tribunal is limited and, as such, the Petitioners are justified to file the above Writ Petition to seek such information. Learned Counsel further pointed out that according to the Petitioners, the Respondent no. 1 is not complying with the directions of the Reserve Bank of India whereby some facilities are reserved to small scale Industries. Learned Counsel also pointed out that the proceedings before the Recovery of Debts Due to Bank Act, 1993 are fixed for final disposal and, as such, no prejudice would occasion in case the information sought by the Petitioners is ordered to be disclosed.

4. Shri S. D. Lotlikar, learned Senior Advocate appearing for the Respondent no. 1, has disputed the said contention. The learned Senior Advocate pointed out that the Respondents have defaulted in the payment of the dues advanced to them and as such, appropriate proceedings are pending before the Tribunal for recovery of the amounts due. Learned Senior Advocate further pointed out that the Respondents have not refused any information as and when the Petitioners have sought with that regard. The learned counsel has also pointed out that the loan was disbursed to the Respondents based on the contracts executed between the parties.

5. We have given our thoughtful consideration to the contentions of the learned Counsel. We have also gone through the records. The reliefs sought by the Petitioners read thus :

"(a) This Hon'ble Court be pleased to issue a Writ of Mandamus in public interest or any other similar writ order or direction commanding Respondent no. 1 to disclose norms and guidelines based on which advances are given to prospective customers based on a reasonable classification of borrowers and in accordance with the guidelines of RBI or to lay down such norms and guidelines so as to remove arbitrariness in procedure;

(b) This Hon'ble Court be pleased to issue a Writ of Mandamus in public interest or any other similar writ order or direction commanding Respondent no. 1 to disclose norms and guidelines based on which advances are given to Petitioner's SSI units and to lay down such norms and guidelines so as to remove arbitrariness in procedure.

(c) This Hon'ble Court be pleased to issue a Writ of Mandamus in public interest or any other similar writ order or direction directing Respondent no. 3 and Respondent no. 4 to lay down norms, circulars, directions, guidelines to regulate Respondent no. 1;

(d) This Hon'ble Court be pleased to issue a Writ of Certiorari in public interest or any other similar writ order or direction in the nature of Certiorari where Respondent no. 1 be ordered and directed

to disclose the rules and regulations by which Respondent no. 1 processes, approves and grants loans and facilities to different entities and the parameters in respect thereof;"

6. On going through the said reliefs, we find that the relief of such general nature cannot be granted at the instance of the Petitioner who is a defaulter in the payment of the dues to the Respondents. Apart from that the fact that the Respondents have initiated proceedings in terms of the relevant provisions of law is not in dispute. It is also not disputed that in such proceedings the amounts due by the Petitioners and the correctness of the action taken by the Respondents with that regard are under consideration before such Tribunal. In such circumstances, the question of entertaining a petition under Articles 226 and 227 of the Constitution of India when substantive proceedings are pending before the Tribunal is not at all justified. The contentions of the petitioners are on the basis of some statements by the witnesses of the Respondents in proceedings before the Tribunal which have not yet been disposed of. The limited claim from the Petitioners is based on contracts executed by the parties as pointed out by Shri Lotlikar, learned Senior Advocate appearing for the Respondent no.1. In such circumstances, there is no question of entertaining the above Petition at the instance of the Petitioners.

7. Hence, the Petition stands accordingly rejected.

M. S. SANKLECHA, J.

F. M. REIS, J.

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