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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.158 OF 2004

Prakash Bhimrao Pingale & Ors ..Petitioners.
V/s.
State of Maharashtra & Ors. ..Respondents.

None for the petitioners.

Mr.S.N.Patil AGP for the respondent Nos.1 to 3.

CORAM : A.S.OKA AND
A.K. MENON, JJ.

DATED : 20TH FEBRUARY, 2015

P.C. :-

1. When the petition is called out for final hearing, none appeared for the petitioners. Even on 23rd January, 2015, none had appeared for the petitioners. The only substantive prayer in this PIL is the prayer clause (b) which reads as under:-

> "*(b) That this Hon'ble Court be pleased to issue appropriate writ order or direction directing the respondent Nos.1 to 3 to take immediate action against respondent No.4 for refusing to refund the amount of deposit of its members.* "

2. There is an affidavit filed by Mr.Vilas Panditrao Sole, the Regional Director (Sugar), Ahmednagar dated 4th February, 2005. The affidavit makes a reference to the provisions of bye-law No.64

of the fourth respondent. It will be necessary to make a reference to paragraph 4 of the said affidavit which reads thus :-

> *"With reference to Para Nos.8 to 10 of the Public Interest Litigation, I say that as per the provisions of bye-law 64 of the Respondent No.4, Sahakari Sakhar Karkhana, Respondent No.4 as per the Government Order can deduct convertible deposits from out of sugarcane supplied for crushing to the Respondent No.4 by the members / non-members. These convertible deposits so deducted by the Respondent No.4 may be converted to share of the Members or as termed deposits for a period of five to ten years. In case of cancellation of Membership of the individual the amount of deposits, subject to deduction of recoverable amount from concerned Member, the Respondent No.4 has to repay said amount to the individual whose Membership is cancelled.*
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> *I further say and submit that the convertible deposits which are to be converted into share of the Member, the amount of deposit over and above the amount of share value has to be repaid by the Respondent No.4 to the Member Deposits."*

3. In further part of paragraph 4, it is stated that the fourth respondent has refunded non refundable (convertible) deposits of ₹185.45 lacs during the period 1980-81 to 2003-04. It is stated that in the year 2004, a resolution was passed by the fourth respondent recording that considering the financial constraints, the amount should not be refunded. Reliance is placed on instructions issued by the second respondent to refund the deposit of the depositors with interest thereon.

4. There is an affidavit of Mr. Namdeo Vithoba Borwadkar, the Managing Director of the fourth respondent. It is stated therein that the fourth respondent may be granted time of three years to repay the deposits. This affidavit has been filed on 11th July, 2005. There is a counter affidavit filed by the petitioners on 20th October, 2005. However, thereafter, there is no affidavit filed on record making any grievance that the fourth respondent has not paid any further amounts. None had appeared for the petitioners on both occasions when the petition was called out for final hearing. The petition of the year 2004 cannot be kept pending. We, accordingly, dispose of the petition. Rule is discharged. If the petitioners find that the first respondent has not refunded the amount to the substantial number of depositors, the petitioners can always take out an application for revival of the PIL.

(A.K.MENON, J.) **(A.S.OKA, J.)**