IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2472 OF 2014

Nandani Bhajipala va Phalphalawal }
Utpadak Sahakari Sangh Mydt. Nandani } Petitioner
versus
The State of Maharashtra and Ors. } Respondents

Mr. Manoj Patil for the Petitioner.

Mr. P. G. Sawant-AGP for Respondent Nos. 1 to 4.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATED :- NOVEMBER 18, 2015

P.C. :-

By this Petition under Article 226 of the Constitution of India, the Petitioner prays that this Court should call for the entire record and proceedings from the file of Respondent No. 4, namely, the District Deputy Registrar, Co-operative Societies, with regard to the Petitioner's claim and after going through the legality and validity thereof, be pleased to quash and set aside the communication or the direction contained in the same (Annexure 'R' to the Writ Petition). This Court should also set aside another communication Annexure 'Q'.

2) The State of Maharashtra has declared a policy. That enables waiver of loans of those farmers, fruit and vegetable producers, who are unable to discharge their liability to repay the loan amount. The Maharashtra Government Agricultural Debt and Loan Waiver Scheme 2009 is the scheme involved in question. The Petitioner states that it is a Co-operative Society registered under the Maharashtra Co-operative Societies Act, 1960. Its main object is to provide seeds, fertilizers and disburse loan to its members on credit basis. The Petitioner claims that it is functioning in terms of bye laws and in accordance with the Maharashtra Co-operative Societies Act, 1960. The first Respondent floated a scheme giving benefit of the specific sum to the farmers. These farmers have availed benefit of loan waiver scheme of the Union of India and they would get assistance if they pay the remaining amount or amount due till 30th June, 2009. It is stated that this scheme shall be applicable to Nationalised Banks, Commercial Banks, District Central Co-operative Banks, Land Development Bank, Urban Co-operative Bank and other similar Co-operative Societies excluding Rural Non-Agricultural Co-operative Societies.

3) Our attention is invited to this scheme and it is stated that relying upon the scheme, copy of which is annexed as Annexure 'A' to the Petition, the Petitioner granted certain benefits to its members. It

disbursed crop loans to its members after obtaining necessary funds from the Kolhapur District Central Co-operative Bank. The claim of the Petitioner is that the Petitioner is entitled to benefits of the loan waiver scheme. It is stated that by the impugned communications, the Petitioner has not been considered eligible for such benefits.

4) We have, with the assistance of Mr. Patil, perused the Petition and all Annexures thereto, including the impugned communications. We find that the scheme which is being relied upon is to assist the farmers. Such farmers, who have obtained crop loans and are unable to discharge their liability because of natural calamities and reasons beyond their control, are assisted by this scheme. The farmers, who are debt-ridden, are helped so that they get some waiver of the loans and which could be complete or partial. The Petitioner is claiming to be a Co-operative Society of fruits and vegetable producers. The members of the Petitioner may be farmers, however, the records have indicated that the subject Taluka Shirol has several such societies and who are claiming the benefits of the scheme. However, the record further reveals that despite intensive probe, investigation, verification and scrutiny as far as this Shirol Taluka is concerned, there is no proof that they have disbursed loans to their members after obtaining funds from the District Central Co-operative Bank. There is substance in the

contention that even if parties like the Petitioner Society can be held to be qualified and eligible, but once the statutory records and the reports of the auditor would indicate that the necessary proof and evidence is lacking, then, we cannot assist the Petitioner in our equitable and discretionary jurisdiction under Article 226 of the Constitution of India. The contents of Annexures 'Q' and 'R' would demonstrate as to how the information which has been obtained by the statutory authorities and the result of the statutory audit reveal that the necessary proof is not furnished or placed on record. In the absence of such proof, parties like the Petitioner cannot approach this Court in its Writ Jurisdiction and seek any relief. They cannot call upon this Court to substitute its views with that of the statutory authorities. Once the view and opinion of the statutory authority is based on relevant and germane materials, such as audit reports, then, all the more we cannot exercise our Writ Jurisdiction. We cannot interfere with the decisions taken by the statutory authorities. There is no merit in the Writ Petition and it is dismissed. There would be no order as to costs.

(B.P.COLABAWALLA, J.) **(S.C.DHARMADHIKARI, J.)**