IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2360 OF 2015

Mrs. Aruna Ravindra Gandhi ...PETITIONER

versus

The State of Maharashtra and others … RESPONDENTS.

WITH

WRIT PETITION NO. 2155 OF 2014

Mr. Sandeep Kanhyalal Gandhi ...PETITIONER

versus

The State of Maharashtra and others … RESPONDENTS.

WITH

WRIT PETITION NO. 2361 OF 2015

Mr. Rohan Ravindra Gandhi ...PETITIONER

versus

The State of Maharashtra and others … RESPONDENTS.

WITH

WRIT PETITION NO. 2362 OF 2015

Mrs. Shashikala Rajendra Mutha ...PETITIONER

versus

The State of Maharashtra and others … RESPONDENTS.

WITH

WRIT PETITION NO. 2363 OF 2015

Miss Ankita Kishor Mutha ...PETITIONER

versus

The State of Maharashtra and others … RESPONDENTS.

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Mr. Nitin V. Gaware, Advocate for petitioners in all matters
Mr. S.M. Ganachari, AGP for respondents No. 1 4 and 5 in all matters
Mr. S.V. Advant, Advocate for respondent No. 2- RBI in all matters
Mr. Aswhin V. Hon, Advocate for Respondent No. 3 in all matters

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WITH

WRIT PETITION NO. 6979 OF 2013

Rajendra Kantilalji Chopda
and another ...PETITIONERS

versus

The State of Maharashtra and others … RESPONDENTS.

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Mr. Nitin V. Gaware, Advocate for petitioners
Mr. S.M. Ganachari, AGP for respondents No. 1 and 4
Mr. S.V. Advant, Advocate for respondent No. 2- RBI.
Mr. Aswhin V. Hon, Advocate for Respondent No. 3

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CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.

DATED : 28th JULY, 2016.

Order :-

1. The grievance of the petitioners is that respondent No. 2 - Reserve Bank of India (for short "RBI") has not taken action against erring respondent No. 3 – The Ahmednagar Merchant's Co-operative Bank Ltd. Ahmednagar (for short "Bank") and its Officers for exceeding percentage of the nominal members beyond 20% so also not granting

regular membership to the petitioners from date of the application.

2. Mr. Gaware, learned counsel for petitioners submits that large illegalities are committed by respondent-Bank. Respondent - Bank has sanctioned the loans deliberately and willfully to the persons, who are not made regular members, but are given nominal membership with a view that they should not get voting rights. Even respondent - RBI has acknowledged said illegality and way-back in 2015 show cause notice was issued to the Chief Executive Officer of the respondent - Bank as to why action under section 47A (1) (b) read with section 46(4) (I) of the Banking Regulations Act, 1949 (for short " Act of 1949") should not be taken. In spite of giving such show cause notice, no action has been taken by RBI. On the contrary, erring bank and its officials have been protected by the RBI.

3. Mr. Gaware, learned counsel further submits that percentage of the nominal members as per rules and bye-law could not have been more than 20% of the regular members, still in the year 2013, it was to the extent of 89.6%, the RBI had directed to take action under sections 46 and 47 of the Act of 1949 against erring members of the respondent-Bank. Learned counsel submits that even after sanction of loans persons who have given application are not made regular members so as to deprive them from their voting and other rights. The petitioner's case is also similar they are not being made members from the date of their applications.

4. Mr. Hon, learned counsel for the respondent-bank submits that

necessary steps are being taken to reduce the percentage of the nominal members, though earlier it was high. As on the date percentage of the nominal members is 24.94% and the steps are being taken to bring down within statutory limits and within short period same shall be brought within statutory limit of 20%. According to learned counsel, petitioners have been given membership and voting rights.

5. Mr. Advant, learned counsel for respondent-RBI submits that show cause notice was issued to the respondent - bank on the count of high percentage of nominal members, in November 2012, 267.5% however in 2013 same was reduced to 189.60% and it was noticed that respondent - bank is taking steps to reduce percentage of nominal members and when notice was given, it was brought to 57.60%. Considering the efforts being taken by respondent-bank further action was not taken. If within short period respondent-Bank does not take further steps to reduce the percentage of nominal members to 20% and below, RBI would certainly take necessary action as provided under the provisions of the Act of 1949.

6. We have considered the submissions canvassed by the learned counsel for the parties. From the documents on record and notice issued to respondent-bank, it transpires that respondent-Bank did not adhere to the requirement of the rules and by-lays which provided that percentage of nominal members should not exceed 20%. In 2012 it was high as high as 269.5%, in 2015 when show cause notice was issued by the respondent - RBI percentage of nominal members was

brought to 57.60% and today as has been submitted by the learned counsel for respondent-Bank same is brought down to 24.94%.

7. We accept the statement made by Mr. Hon, learned counsel for respondent -Bank on the instructions of the Officer of the Bank. Under the signature of Chief Executive Officer certificate is produced saying that percentage of the nominal members is brought down to 24.94%. If within reasonable period respondent - Bank does not bring down the percentage of nominal members below 20% as is stipulated in rules and bye-laws, RBI is at liberty to take action against said bank as laid down under Banking Regulations Act 1949.

8. So far as dispute with regard to the date of awarding membership to the petitioners is concerned, petitioners may approach competent authority in that regard. If any such application is filed by the petitioners before competent authority, the authority concerned shall decide the same on its merits and in accordance with Act, Rules and Bye laws, after hearing all the parties concerned, as expeditiously as possible preferably within six months from the date of application.

9. With aforesaid directions, writ petition stands disposed of. No costs.

Sd/- Sd/-

[K. K. SONAWANE, J.] **[S. V. GANGAPURWALA, J.]**

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