IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11044 OF 2014

The District Marketing Officer, … **Petitioner**
The Maharashtra State
Cooperative Marketing Federation
Ltd. Mumbai,
District Office at Beed.

VERSUS

1. The State of Maharashtra
Through its Secretary,
Ministry of Cooperation,
Mantralaya, Mumbai.

2. The Director,
Reserve Bank of India,
PCGM and Secretary, Secretary's
Department,
Reserve Bank of India, 16th
Floor, Central Office Building,
Shahid Bhagat Singh Marg,
Mumbai 400 001

3. The Commissioner for Cooperation … **Respondents.**
and Registrar for Cooperative
Societies, (M. S.), Pune.

4. The Divisional Joint Registrar,
Cooperative Societies, Latur
Division, Latur.

5. The Administrator and Additional
Collector,
Beed District Central
Cooperative Bank Ltd. Beed

6. The Manager,
Beed District Central
Cooperative Bank Ltd. Beed
Zilla Parishad Branch.

Shri P. D. Suryawanshi and Shri A. A.Shelke,Advocates holding for Shri D. N.Suryawanshi, Advocate for the petitioner

Shri D. R. Kale, AGP for the Respondents-State.

Shri S. B. Deshmukh,ASG, for respondent No.2,

Shri D. J.Choudhari, Advocate for respondent Nos. 5 & 6

CORAM : R. M. BORDE &
K. L. WADANE, JJ.

DATE : 10th June, 2016

ORDER:

1. Heard learned counsel for the respective parties.

2. The petitioner is praying for issuance of directions to the respondents to release the amount deposited in the accounts maintained by the petitioner bearing Nos. 149, 164 and 953 with respondent No. 5 Bank, total amount of Rs. 1,51,20,942.72 ps. together with interest.

3. It is the contention of the petitioner that the amount has been deposited by the Marketing Federation in the accounts and as a result of failure of the Bank to permit the petitioner to withdraw the sum deposited in its own account, the activities of the Cooperative Federation are adversely affected. It is stated that the amount is required for distributing manure and

seeds to the agriculturists and as a result of inability of the Bank to refund the amount, the beneficial activities of the Federation are adversely affected.

4. On earlier point of time, there were several petitions presented in this Court by the individual depositors, who had maintained accounts with the DCC Bank and deposited the sum ranging from Rs.1 lac or 2 lac in the fixed deposits, claiming refund of the amount. Even after maturity of the fixed deposits, the Bank is not in position to refund the amount to the individual depositors, who have either maintained saving account with the bank or such of those depositors who have deposited an amount in the fixed deposits and such fix deposit receipts have matured. As a result of failure of the Bank to disburse to the needy individual depositors their own amount, they are facing hardship.

5. It is a matter of common knowledge that in the District, there prevails scarcity situation and the agriculturists are facing acute problems of finance. The inability of the Bank to release the amount of individual depositors maintained in their own account

is not understandable. Such a situation has arisen as a result of mismanagement of the Bank by the Directors who are responsible for its management. It is worth noting that there are 138 offences/crimes are registered either against borrowers, employees of the Bank and then members of the Board of Directors of the Bank alleging misappropriation and mismanagement of funds, forgery and preparation of false record. It is informed that in respect of 128 crimes, investigation was conducted and charge sheets have been presented. After presentation of the charge sheets, special investigation team found some additional material. As such, in 52 matters, applications have been presented to the court seeking permission to conduct further investigation under section 173 (8) of the Criminal Procedure Code. It is further informed that in seven crimes wherein the investigation was in progress, in respect of four crimes charge sheets have been presented and investigation is in progress in respect of three crimes. These facts would reveal that the employees, then Members of the Board of Directors and some of the borrowers of the Bank are responsible for the present state of deteriorated financial health of the Bank.

6. It is also a matter of record that there were inquiries initiated against individual Directors and in four different proceedings, personal liability to the tune of Rs.2,59,78,075/-, Rs.22,11,19,914/- Rs. 4,12,30,695/- and Rs.2,93,87,178/- has been prescribed. All though it is brought to our notice that there are appeals pending, challenging the decision in the inquiries conducted under section 88 of the Maharashtra Cooperative Societies Act, however, there is no order of stay prohibiting recovery has been granted by the appellate court. It is also brought to our notice that recovery certificates have already been issued for the purpose of enforcing the recovery of the aforesaid sum. The reluctance of the Bank to recover the amount under the orders issued by the Cooperation Department in the enquiry under section 88 of the Maharashtra Cooperative Societies Act, 1960 is not understandable. The Bank is avoiding to recover of the amount for its own reason. It is not a matter of dispute that financial health of the Bank has already deteriorated.

7. The District Central Cooperative Banks in the Districts are the lifelines for the agriculturists. The Banks at the district level are expected to release

credit in favour of the agriculturists so as to help them in overcoming credit crunch at the beginning of *kharip* season. In spite of drought situation prevailing in the district, as a result of bad financial health of the Bank, the agriculturists in the district are put to sufferings. There cannot be dual opinions that financial health of the Bank has deteriorated as a result of the bad management by the Directors. It was expected from the Bank and the Cooperation Department to ensure recovery of the amount as determined by the Enquiry Officer in an enquiry conducted under section 88 of the Cooperative Societies Act. A huge sum of about Rs.32 crore is recoverable towards the liability prescribed on the Directors, etc. If this amount is recovered, it would facilitate the Bank to disburse at least part of the sum receivable by the individual depositors who have reposed faith in the Bank and deposited the amount.

8. In the circumstance, we direct the Commissioner of Cooperation, Maharashtra State, Pune as well as the District Central cooperative Bank, Beed to ensure recovery of the amount determined in the enquiry proceedings under section 88 of the Maharashtra

Cooperative Societies Act from the concerned individuals and disburse the proportionate amount to the fixed deposit holders and the individual account holders of the Bank. We direct the respondents to enforce the order within a period of four weeks from today.

9. So far as amount receivable by the petitioner is concerned, the same shall be refunded in three equal instalments within a period of six months. The Bank shall disburse first instalment within two months, second instalment at the end of four months and third instalment shall be disbursed at the end of six months from today.

10. With the directions as above, the writ petition is disposed of.

(K. L. WADANE, J.) **(R. M. BORDE, J.)**

JPC