

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 2041 OF 2013

Shri Samarth Sahakari Pathpedhi Ltd.,
Dhule, 1199, Shri Samartha Bhavan
First Floor, Nagarpatti, Dhule,
Through its Chief Executive Officer
Shri Sachin Suresh Kulkarni
Age - Major, Occu. Service,
R/o C/o Shri Samartha Sahakari
Patpedhi Ltd., Dhule, 1199, Shri
Samartha Bhavan, First Floor,
Nagarpatti, Dhule. .. Petitioner

Versus

1. The State of Maharashtra,
Through Principal Secretary,
Cooperation and Marketing Department,
Mantralaya, Mumbai.
2. The Commissioner of Cooperation and
Assistant Registrar, Cooperative Societies,
Maharashtra State, Pune.
3. The Additional Registrar,
Cooperative Societies, Maharashtra State,
Pune.
4. Deposit Insurance and Credit Guarantee
Corporation, Head Office,
Reserve Bank of India Building,
2nd Floor, Opp. Bombay Central
Railway Station, Mumbai,
Through its General Manager.

5. Shri P. K. Anna Patil Janta Sahkari
Bank Ltd., Taloda Road, Nandurbar,
Dist. Nandurbar,
Through its Liquidator.
 6. The Satpuda Tapi Parisar Sahkari
Sakhar Karkhana Ltd.,
Purushottam Nagar, Taluka Shahad,
Dist. Dhule,
Through its Chairman.
- .. Respondents

Shri R. L. Kute, Advocate h/f Shri N. B. Suryawanshi, Advocate
for the Petitioner.

Shri N. B. Patil, A.G.P. for Respondent Nos. 1 to 3.

Shri S. V. Adwant, Advocate for the Respondent No. 4.

Shri N. R. Bhavar, Advocate for the Respondent No. 5.

Shri P. P. Chavan, Advocate for the Respondent No. 6.

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

DATE : 22ND JULY, 2016.

ORAL JUDGMENT (Per S. V. Gangapurwala, J.) :-

. Mr. Kute, the learned counsel for the petitioner submits that, the petitioner has kept fixed deposit with the respondent No. 5 of an amount of Rs. 6,68,00,000/-. The said fixed deposit had the maturity value of Rs. 8,09,49,755/-. The respondent No. 5/bank subsequently went into liquidation. A meeting was held and it was decided to enter into a tripartite agreement between the petitioner, the respondent No. 5/bank and the respondent No. 6/karkhana. As per the said tripartite agreement it was decided that, the matured amount of Rs. 8,09,49,755/- be transferred to

the respondent No. 6/Karkhana, which will be treated as fixed deposit of the petitioner with the respondent No. 6/karkhana and the same shall earn simple interest of 7% per annum. The agreement was forwarded for approval to the respondent No. 2. The respondent No. 2 ignoring the interest of the parties, refused to grant approval to the tripartite agreement, as such the present writ petition is filed. Even the respondent No. 5 made a request with the Deposit Insurance and Credit Guarantee Corporation (for short "D.I.C.G.C.") for transferring the deposit of amount of the petitioner to the loan account of the respondent No. 6. The D.I.C.G.C. rejected the said request of the respondent No. 5. The said order is also assailed.

2. Mr. Kute, the learned counsel further submits that, the petitioner is a credit society, so also the respondent Nos. 5 and 6 are co-operative societies. The tripartite agreement is in the interest of all the three parties to the agreement. The loan amount of the respondent No. 6 with the respondent No. 5 would get cleared and the amount of the petitioner also would be saved with the respondent No. 6 who would pay the amount to the petitioner with interest at the rate of 7% per annum simple interest. The authorities failed to consider said aspect in its correct perspective. The authorities ought to have safeguarded interest of the depositor. The approach of the respondents while passing the impugned order is irrational and unreasonable. The

very object of the establishment of the respondent No. 4/corporation is defeated.

3. Mr. Bhavar, the learned counsel for the respondent No. 5 submits that, it would not be feasible to accept the request of the petitioner in view of the letter of D.I.C.G.C. and the scheme of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (for short "D.I.C.G.C. Act") and more particularly Sec. 21 of the said Act.

4. Mr. Adwant, the learned counsel for the respondent No. 4/Corporation submits that, such an agreement is impermissible in law. The respondent No. 4/corporation has settled the total claim for an amount of Rs. 56,60,73,605.63. The respondent No. 4/corporation is yet to receive an amount of Rs. 51,48,72,598.87 from the liquidator. As per Sec. 21 of the D.I.C.G.C. Act read with regulation 27 of the D.I.C.G.C. General Regulation 1961 apart from the amount refunded by the liquidator as undisbursed claim amount, the payment of any amount as set off or adjustment would be contrary to the provisions of the D.I.C.G.C. Act read with its regulation. The learned counsel relies on the judgment of the Apex Court in the case of Deposit Insurance and Credit Guarantee Corporation Vs. Ragupathi Ragavan and others reported in (2015) 9 SCC 629.

5. We have considered the submissions. The fact that, the respondent No. 5 is liquidated is not disputed. It also appears from the affidavit filed by the Corporation that, it has settled the claims and now has to receive more than Rs. 51 crores from the respondent No. 5. The private agreement between the parties, though earlier to liquidation, but now after the bank has gone under liquidation and the claims are settled by the D.I.C.G.C. would be contrary to the letter and spirit of Sec. 21 of the D.I.C.G.C. Act. The Apex Court in the case of Deposit Insurance and Credit Guarantee Corporation Vs. Ragupathi Ragavan and others referred to supra has that :

"30. Even if one looks at the entire issue from different point of view, one would believe that all the depositors have by and large equal right. If the amount deposited is less than Rs.1 lakh, each depositor gets the amount in full, but if the deposit is exceeding Rs.1 lakh, then only the amount which is in excess of Rs.1 lakh may not be given to the depositor, unless the bank in liquidation is having sufficient funds which can be given to all on pro-rata basis after providing for expenditure in the liquidation proceedings and after repaying the amount to the Corporation as per the provisions of the Act. The Act in a way guarantees repayment of Rs.1 lakh to each depositor. The High Court or any other authority has no power to direct payment in excess of Rs.1 lakh by ignoring statutory provisions of the Act and the Regulations made thereunder."

6. The private adjustment sought to be made would not be commensurate with the object of D.I.C.G.C. Act. Even otherwise, now the bank has already gone into liquidation. The position at the relevant time when the tripartite agreement was entered into was different after the bank has gone into liquidation. The claims are settled by the D.I.C.G.C. Naturally, the prayer made by the petitioner would in a way not survive and would become redundant and no relief can be granted to the petitioner.

7. Considering the above, the writ petition is disposed of. No costs. Rule discharged.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]