

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1739 OF 2015
WITH WP/830/2015 WITH WP/831/2015

BHAUSAHEB @ SAHEBRAO RAMCHANDRA PAWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Petitioners : Mr. V.S. Bedre
AGP for Respondent No.1: Mr. B.V. Virdhe.
Advocate for respondent No.2 : Mr. R.R. Karpe.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 19TH JULY , 2016.

PER COURT:

1] Petitioners have assailed the certificate issued under Section 98 of the Maharashtra Cooperative Societies Act.

2] Mr. Bedre, learned counsel for the petitioners submits, that the petitioners are entitled for the benefit of Debt Waiver Scheme of the year 2007. The benefit of the Debt Waiver Scheme has not been extended to the petitioners. Award has been passed and the liquidator has issued recovery certificate under Section 98 of the Maharashtra Cooperative Societies Act.

3] According to learned counsel for petitioners, the liquidator does not have any power to issue such certificate under Section 98 of the said Act. Said certificate issued by the Liquidator is beyond his jurisdiction. Learned counsel submits that the bank is also not producing the record of having given benefit of Debt Waiver Scheme to the petitioners. Even interest has been charged exorbitantly.

4] Mr. Karpe, learned counsel for the respondents submits that petitioners in W.P. No. 1739 of 2015 were held eligible for the Debt Waiver

Scheme and were given a rebate of Rs. 50,000/-. As far as W.P. No. 830 of 2015 is concerned, loan is for business purpose and is not covered by the Debt Waiver Scheme. In W.P. No. 831 of 2015, loan of petitioner No.3 is covered under the Debt Waiver Scheme. An amount of approximately Rs. 12.5 Lakhs is due against the petitioners in W.P. No. 831 of 2015. According to learned counsel, the award has not been challenged. The liquidators are given powers to issue Recovery Certificate under Section 98 of the Act as per the circular dated 6.6.2014 issued by the Commissioner.

5] We have considered the submissions. We have asked the learned counsel for the petitioner as to the readiness of the petitioners to deposit some amount, Mr. Bedre, learned counsel states that it may not be possible for the petitioners to deposit the amount.

6] Petitioners have not challenged the award passed under Section 105 of the act. Issuance of Recovery Certificate under Section 98 is a ministerial Act. As award itself is not assailed, it will not be possible for us to consider the case of the petitioners. Petitioners have a remedy to challenge the award passed under section 105, as may be permissible under law. In case some proceedings are taken up by the petitioners, respondents would clarify the position with regard to benefit given to petitioners in respect of Debt Recovery Scheme with relevant evidence. The authority where the proceedings will be filed, shall consider the time spent by the petitioners while prosecuting the present petitions. All contentions of the parties are kept open to be agitated.

7] With these observations, writ petitions are disposed of.

[K.K. SONAWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-