FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.11383 OF 2015
WITH
WRIT PETITION NO.8106 OF 2015
WRIT PETITION NO.8847 OF 2015
WRIT PETITION NO.10200 OF 2015
WRIT PETITION NO.10260 OF 2015
WRIT PETITION NO.10306 OF 2015
WRIT PETITION NO.10976 OF 2015
WRIT PETITION NO.11068 OF 2015
WRIT PETITION NO.11078 OF 2015
WRIT PETITION NO.11420 OF 2015
WRIT PETITION NO.12279 OF 2015
WRIT PETITION NO.12317 OF 2015
WRIT PETITION NO.12319 OF 2015
WRIT PETITION NO.12399 OF 2015

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr.R.S.Deshmukh, Mr.D.R.Jayabhar, Mr.Kokate M.S., advocate for the Petitioners.
Mr.S.G.Karlekar, A.G.P for the State.
Mr.V.J.Dixit, Senior counsel instructed by Mr.S.V.Dixit, advocate for Respondent No.4.
Mr.K.C.Sant, advocate for Respondent No.6.

CORAM : S.V.GANGAPURWALA AND A.M.BADAR,JJ.
Date : 23.02.2016.

PER COURT :

1. Heard.

2. All these petitions are filed seeking recovery of the amounts/refund of their deposits from Beed District Central Cooperative Bank Limited, Beed. Mr.Deshmukh, Mr.Jayabhar,

Mr.Kokate, learned counsel appear for respective petitioners.

3. W.P.No.11383/2015 is filed by the Karkhana on the ground that the deposits of Karkhana are with the Beed District Central Cooperative Bank Limited, Beed, to the extent of Rs.2.99 and odd crores. The Karkhana has issued bills to the cane growers who have supplied sugarcane to the Karkhana. However, the Respondent-bank is not honouring the said Bills though Karkhana has deposits with the said Bank. Mr.Deshmukh, learned counsel submits that the Bills are issued for payment of the fair and remunerative price as fixed by the Government, which payment is required to be made within 14 days of the supply of the sugarcane. The Karkhana seeks direction against the Respondents to release the amount of the deposit i.e. credit balance in the current account of petitioner Karkhana.

4. The other petitioners are the depositors who have their amounts in the Fixed Deposit with the Respondent-bank. According to the said petitioners, they are small depositors. The amount of each Fixed Deposit is less than Rs.2,00,000/- (Rupees two lacs) or in the said range. All the petitioners submit that they are agriculturists and/or pensioners and in this drought situation, they are in need of the amount. They are all residents of Beed District and its villages.

5. Mr.Dixit, learned Senior counsel for the Respondent-Bank

submits that the Respondent-bank is facing financial stringencies. It had deposits of almost 11 crores of the petitioner Karkhana. More than 8 crores is paid to Karkhana. Because of financial crunch, the Respondent-bank is not in a position to make the payment of the Fixed Deposits in lumpsum. According to the learned Senior counsel, the Respondent-bank has decided priority of returning deposits to the depositors as per the priority list detailed in para 17 of the affidavit-in-reply. The learned Senior counsel further submits that there are about five lacs individual depositors whose total amount is Rs.327.83 crores. The petitioner bank incurs monthly expenses under various heads of Rs.1.44 crores. According to the learned Senior counsel the elected Managing Committee has taken charge on 5.5.2015 and they have distributed certain amounts to the depositors from 1.10.2015 to 31.10.2015. The Bank has distributed Rs.5,000/- (Rupees five thousand) each to 36,307 depositors and from 1.11.2015 to 20.11.2015 Rs.10,000/- each to 42,778 depositors. The elected body as such, till date from the date of their election has paid about 26.57 crores to the small depositors. Learned Senior counsel submits that the Respondent-bank is endeavouring to pay amounts as per the priority claim. Even recovery proceedings are filed against the defaulters. The learned Senior Counsel submits that considering the drought situation, the State Government has prohibited the bank from recovering the loan amounts disbursed to the agriculturists. Almost 85% recovery is from the agriculturists.

6. We have considered the submissions canvassed by the learned counsel for respective parties. The factum of Fixed Deposit of the petitioners with the Respondent-bank is not debated. The same is a matter of record. No doubt, when the depositors have deposited the amount, they are entitled to their amount at least on maturity. This Court also can not loose sight of the drought situation in this region and the severe crisis the agriculturists are facing. The amount of Fixed Deposit is the amount of the depositors which they are entitled to liquidate. Even the Bills issued to the cane growers by the Karkhana is an amount payable to the agriculturists. The Respondent-bank has liability to make payment to all of them. The Respondent-bank has not denied its liability to make the payment, however, has come forward with plea of financial crunch and stringencies. The Bank may be having its financial problem, however, at the same time the plight of the agriculturists are also required to be redressed. The Respondent-bank has to take steps to satisfy the liabilities, more particularly, of small depositors and agriculturists. No doubt, the Respondent-bank has given its list of priority persons to whom the payment is to be made. The Respondent-bank is required to make the payment at least partially to redress the plight of small depositors and the

agriculturists.

7. Considering the above, we pass the following order :

a) The Respondent-bank shall make payment of 25% of the amount of Fixed Deposit of the petitioners other than the petitioner in W.P.No.11383/2015 within a period of three (3) months from today. Another 25% of the payment shall be made within three (3) months thereafter and shall endeavour to make full payment of the Fixed Deposits within 12 (twelve) months from today.

b) As far as bills issued by the Petitioner Karkhana to the cane growers, the Respondent-bank shall make the payment to the respective cane growers in whose favour the cheques are issued by the Karkhana by deducting 50% of the amount recoverable by the Respondent-bank as on the date outstanding. The deduction of the said amount would be without prejudice to the rights of the parties regarding the quantum of the deduction.

c) As far as W.P.No.11383/2015 is concerned, by the aforesaid order, the grievance of the petitioner to some extent is redressed. However, if the said petitioner does not get its amount of deposit from the Respondent-bank within a reasonable time, liberty to the petitioner to take such further steps.

d) We have passed this order considering the equities and the drought situation existing as on today.

e) The Writ Petitions are accordingly disposed of. No costs.

(A.M.BADAR,J.) **(S.V.GANGAPURWALA,J.)**

Dt.23.02.2016.
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