

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4698 OF 2014

|                                                                           |    |            |
|---------------------------------------------------------------------------|----|------------|
| Rajarambapu Sahakari Bank Ltd.,<br>Peth, District Sangli                  | .. | Petitioner |
| Versus                                                                    |    |            |
| The Commissioner of Cooperation &<br>Registrar Cooperative Societies Pune | .. | Respondent |

WITH

CIVIL APPLICATION NO.41 OF 2015  
IN  
WRIT PETITION NO.4698 OF 2014

|                                                          |    |            |
|----------------------------------------------------------|----|------------|
| Raghunath Ramchandra Patil                               | .. | Applicant  |
| Versus                                                   |    |            |
| Rajarambapu Sahakari Bank Ltd.,<br>Peth, District Sangli | .. | Respondent |

WITH

WRIT PETITION NO.8092 OF 2014

|                                                                           |    |            |
|---------------------------------------------------------------------------|----|------------|
| Parshwanath Cooperative Bank                                              | .. | Petitioner |
| Versus                                                                    |    |            |
| The Commissioner of Cooperation &<br>Registrar Cooperative Societies Pune | .. | Respondent |

WITH

WRIT PETITION NO.7118 OF 2014

|                                                                                  |    |             |
|----------------------------------------------------------------------------------|----|-------------|
| Dr. Annasaheb Chougule Urban Coop.Bank,<br>Peth Vadgaon, Kolhapur                | .. | Petitioner  |
| <i>-Versus-</i>                                                                  |    |             |
| The Commissioner of Cooperation &<br>Registrar Cooperative Societies Pune & Anr. | .. | Respondents |

Mr.Amit Borkar for petitioners  
Mr. Vijay Killedar for Intervenor in CAW 41 of 2015  
Mrs. M.S.Bane, AGP for respondent Nos. 1 to 3

CORAM : G.S.KULKARNI, J.

DATE : 20<sup>th</sup> January 2016.

P.C.

1] The petitioner is a Cooperative bank governed under the provisions of Maharashtra Coop. Societies Act, 1960. By this petition, the petitioners challenge the communication dated 21<sup>st</sup> March 2014 and 19<sup>th</sup> April 2014 issued by respondent No.1, Commissioner of Cooperation and Registrar of Cooperative Societies.

2] By the impugned communication, the petitioner has been informed that in pursuance of an audit of the accounts of the petitioner bank and more particularly pertaining to the agricultural loan and interest charged thereon, and consequent to the report of Special Auditor, Co-op.Societies Sangli and the report of the Divisional Joint Registrar (Accounts) Kolhapur, it is revealed that as per the norms of the Reserve Bank of India, an amount of Rs.1,68,55,169 has been recovered from the borrowers as an excess interest and an amount of Rs.3,59,450 as a

reduced interest, in respect of the agricultural loans. The impugned communication therefore directs the petitioners to refund to the concerned borrowers the excess rate of interest as charged by the petitioner bank, as also to recover the interest levied at reduced rates. The communication directs the petitioner to submit its reply on this particular finding. By a letter dated 3<sup>rd</sup> April 2014, the petitioner has given its justification with regard to the rate of interest as levied. It is not necessary to go into the details of the contentions and the reply filed. Suffice it to observe that by further communication dated 19<sup>th</sup> April 2014, the reply of the petitioner is not accepted and that the petitioner has been intimated that if appropriate action is not taken within a period of 8 days and compliance thereof not submitted action under section 79 of the Act would be initiated.

3] Learned Counsel for the petitioner submits that in issuing such communication dated 19<sup>th</sup> April 2014, admitted no hearing was given to the petitioners. Learned AGP on instructions confirms this position.

4] Learned Counsel appearing for the intervenors has also made submissions to point out that the report of the Auditor is serious and it is a matter of much concern as the petitioner was dealing with agricultural loan. He has therefore, intervened in the petition.

5] Having heard the learned Counsel for the parties and having perused the communications impugned and more particularly communication dated 19<sup>th</sup> April 2014, it is quite clear that no reasons are accorded in this communication to reject the issues as raised by the petitioners, in the reply filed to the communication dated 21<sup>st</sup> March 2014. Admittedly no hearing was granted to the petitioners. There is no substance in the contention as raised on behalf of the petitioner as to the powers under which the communication dated 21<sup>st</sup> March 2014 has been issued by the first respondent. Considering the above facts, it is not necessary to go into the contentions as raised by the petitioners and the intervenors for two reasons; firstly, the petitioners have directly approached this court assailing the communications when an appropriate alternate remedy is available to them under the Act. However, as it is an admitted position that the communication dated 19<sup>th</sup> April 2014 has been issued without hearing been granted to the petitioners, it would be in the interest of justice that the parties are relegated to the first respondent who would consider the reply filed by the petitioners to the communication dated 21<sup>st</sup> March 2014 and after granting an opportunity of being heard to the concerned parties, including, intervenors, pass an appropriate orders in accordance with law.

6] Looking at the cause in hand, it would be desirable that the first respondent completes this exercise within six weeks from today. All contentions of parties are expressly kept open. Needless to observe that till the first respondent decides the issue, no coercive action shall be taken against the petitioner under the impugned communication dated 19<sup>th</sup> April 2014. Petitions are disposed of in the above terms. No costs.

(G.S.KULKARNI, J)

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| Versus                                                   |    |            |
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Mr.Amit Borkar for petitioners  
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CORAM : G.S.KULKARNI, J.

DATE : 20<sup>th</sup> January 2016.

P.C.

1] In view of the disposal of writ petition, this application does not survive and the same is disposed of as such.

(G.S.KULKARNI, J)