

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****Writ Petition NO. 9193 OF 2013**

Tasgaon Urban
Co-operative Bank Ltd. ...Petitioner(s)
Vs.
The State Of Maharashtra & OrsRespondent(s)

WITH
Writ Petition NO. 7941 OF 2014

The Liquidator,
Vasantdada Shektar Sahakari Bank Ltd. ...Petitioner(s)
Vs.
The State Of Maharashtra & OrsRespondent(s)

WITH
Writ Petition NO. 9177 OF 2013

Sangli Urban Co-operative Bank Ltd. ...Petitioner(s)
Vs.
The State Of Maharashtra & OrsRespondent(s)

WITH
Writ Petition NO. 9178 OF 2013

Palus Co-operative Bank Ltd ...Petitioner(s)
Vs.
The State Of Maharashtra & OrsRespondent(s)

WITH
Writ Petition NO. 9179 OF 2013

Satyavijay Co-operative Bank Ltd ...Petitioner(s)
Vs.
The State Of Maharashtra & OrsRespondent(s)

WITH
Writ Petition NO. 9180 OF 2013

Rajarambapu Co-operative Bank Ltd.	...Petitioner(s)
Vs.	
The State Of Maharashtra & Ors .	...Respondent(s)

WITH
Writ Petition NO. 9181 OF 2013

Hutatma Co-operative Bank Ltd	...Petitioner(s)
Vs.	
The State Of Maharashtra & Ors .	...Respondent(s)

WITH
Writ Petition NO. 9182 OF 2013

Shree Laxmi Co-operative Bank Ltd	...Petitioner(s)
Vs.	
The State Of Maharashtra & Ors .	...Respondent(s)

WITH
Writ Petition NO. 9183 OF 2013

Islampur Urban Co-operative Bank Ltd	...Petitioner(s)
Vs.	
The State Of Maharashtra & Ors .	...Respondent(s)

WITH
Writ Petition NO. 9184 OF 2013

Bajiraoappa Co-operative Bank Ltd	...Petitioner(s)
Vs.	
The State Of Maharashtra & Ors .	...Respondent(s)

WITH
Writ Petition NO. 9185 OF 2013

Ashtha Peoples Co-operative Bank Ltd	...Petitioner(s)
Vs.	

The State Of Maharashtra & Ors .

...Respondent(s)

WITH
Writ Petition NO. 9186 OF 2013

Babasaheb Deshmukh
Co-operative Bank Ltd

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

WITH
Writ Petition NO. 9187 OF 2013

Manmandir Co-operative Bank Ltd

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

WITH
Writ Petition NO. 9188 OF 2013

Mansing Co-operative Bank Ltd

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

WITH
Writ Petition NO. 9189 OF 2013

M. D. Pawar Peoples Co-operative Bank Ltd

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

WITH
Writ Petition NO. 9190 OF 2013

Vita Merchants Co-operative Banka Ltd.

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

WITH
Writ Petition NO. 9191 OF 2013

Sarjeraodada Naik Shirala
Co-operative Bank Ltd.

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

**WITH
Writ Petition NO. 9192 OF 2013**

Appasaheb Birnale
Co-operative Bank Ltd.

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

**WITH
Writ Petition NO. 10952 OF 2013**

Nandani Sahakari Bank Ltd, Nadani.

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

**WITH
Writ Petition NO. 11778 OF 2013**

Shri. Bharat Urban Co-op. Bank,

...Petitioner(s)

Vs.

The State Of Maharashtra & Ors .

...Respondent(s)

Mr. Amit B. Borkar for the Petitioners in all the matters except WP No. 10952 of 2013 and 11778 of 2013.

Mr. Manoj G. Patil for the Petitioner in WP No. 10952 of 2013 and 11778 of 2013.

Mr. V.N. Sagare, AGP for Respondent Nos. 1 to 3 in all matters.

**CORAM : ANOOP V. MOHTA AND
G.S. KULKARNI, JJ.
DATE : 21 JUNE 2016.**

ORDER:-

In all these Petitions, the Petitioners, who are the co-operative Banks, registered under the Maharashtra Co-operative Societies Act, 1960, have challenged the action and basically the orders/communications issued by Respondent No.3 on the ground that the same are issued without giving any show cause notices and hearing, whereby the Petitioners are directed to deposit respective amounts so mentioned in the demand notice/impugned communications.

2 This Court, by an order dated 29 October 2013, has already protected the Petitioners to the extent that no coercive steps be taken against the Petitioners-Bank, on the basis of the impugned orders/communications, as well as, the notices issued under Section 155 of the Maharashtra Co-operative Societies Act, 1960. We have also noted that the whole action, so initiated by the Respondents, is arising under the Maharashtra State Agricultural Loan Waiver and Loan Repayment Scheme, 2009, on the foundation of an Audit/ Inquiry/Objection. In the Affidavit-in-Reply dated 24 December 2013,

filed by the Respondents, there are various allegations made against the respective Petitioners, to justify such action and/or the demand. It may be possible that in the facts and circumstances the demand so raised against the Petitioners are justified and in public interest, however, we do not wish to go into the merits of the same as the basic issue is whether before issuance of the impugned order, the Petitioners were granted an opportunity of being heard.

3 After hearing the parties and when inquired from the learned AGP, it is not in dispute that no show cause notice was issued and/or any opportunity was given to the Petitioners to defend such action prior to issuance of the impugned notices/communication, demanding the amounts. We are of the opinion that an opportunity needs to be given to the respective Petitioners for raising their defence and/or make their respective submissions before any action is taken against the respective Petitioners-Banks for such recovery. Therefore, by keeping all points open and in the interest of justice and as the impugned order/action is in breach of the basic principles of natural justice, we are inclined to permit the concerned Respondents to issue fresh show cause notices to the respective Banks.

4 Therefore, taking overall view of the matter, we are inclined to quash and set aside the Demand Notice/ impugned communications and/or similar communications dated 5 April 2011 issued to the respective Petitioners, with liberty to the Respondents to issue show cause notice afresh within a period of four weeks from today. The Petitioners shall submit their reply to the show cause notices within a period of four weeks thereafter. The Respondents shall pass orders in accordance with law, after hearing the respective Petitioners, within a period of eight weeks from the date of hearing the Petitioners.

5 This Court, as already noted, on 29 October 2013 has protected the Petitioners and the orders have been still in force. We are, therefore, inclined to continue the protective order till the communication of the above stated final orders/decision by the concerned Respondents. If an adverse order is passed against the Petitioners, it be implemented for a further two weeks, from the date of communication of the respective orders.

6 It is made clear that, we are not examining the merits of
the matters, except for whatever we have recorded here-in-above. All
the points and rival contentions of the parties, are kept open.

7 All the Writ Petitions are accordingly, disposed of in the
aforesaid terms. There shall be no order as to costs.

(G.S. KULKARNI, J.)

(ANOOP V. MOHTA, J.)