

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10733 OF 2015

Dr. Annasaheb Chougule Urban
Co. Bank Ltd & Ors.

.....Petitioners

V/s.

Vasant Damodar Vankurde & Ors.

.....Respondents

* * * * *

Mr. Umesh R. Mankapure, Advocate for the petitioners.

Mr. S.S. Patwardhan i/by. Mr. Chetan G. Patil, Advocate for
respondent no.1.

Ms. M.S. Bane, AGP for respondents no.2 to 4.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 20TH JULY, 2016.

P.C. :-

1). Petitioner no.1 is a Co-operative Bank. Petitioner no.2 is its Founder Director, petitioner no.3 its Chairman and petitioner no.4 is its Vice Chairman. Petitioners no.5 to 18 are its Directors and petitioners no.19 to 23 its different office bearers. On 22nd September, 2014 respondent no.1 filed application under Section 148 of the Maharashtra Co-operative Societies Act, ("the Societies Act" for short) seeking sanction to prosecute the petitioners under Section 146(k) of the Societies Act. Respondent no.2 considered the application and by his order detailed order dated 23rd February, 2015 granted sanction for prosecution in respect of one of the

offences under Section 146(k) i.e. failure to maintain proper accounts. The petitioners challenged the order by filing revision application before the Hon'ble Minister, Co-operation, Marketing and Textile Ministry. Their revision has been dismissed by the order dated 2nd September, 2015. Hence, the present petition.

2). Mr. Mankapure, the learned Advocate appearing for the petitioners submits that, an identical application filed by respondent no.1 having been dismissed by respondent no.2 by his order dated 7th August, 2014, he could not have entertained the second application from respondent no.1 for the same purpose. Perusal of the order dated 7th August, 2014, a copy of which is annexed to the petition, shows that the dismissal was solely on the ground that, the provision of the Societies Act mentioned in the application under which the sanction was sought, was incorrect. That order is, therefore, inconsequential. In any case, as has been rightly pointed out by Mr. Patwardhan, the learned Advocate appearing for respondent no.1, the challenge by the petitioner before the Hon'ble Minister, as well as, the present petition is not maintainable since the petitioner can have no hearing at this stage of the proceedings. Whatever be the defence claimed by the petitioner to the allegations, the same are required to be taken at the time of the trial. This position of law has been clearly stated in the decision of the Apex Court in **State of Maharashtra Versus. Ishwar Piraji Kalpatri and Others, reported in (1996) 1 Supreme Court Cases page 542**. In the decision cited, the Apex Court has quoted with approval, its observations in another decision i.e. **K. Veeraswami V/s. Union of India, reported in**

(1991) 3 SCC page 655. The relevant observations are :-

“17. The order of sanction is only an administrative act and not a quasi-judicial one nor is a lis involved. Therefore, the order of sanction need not contain detailed reasons in support thereof as was contended by Shri. Jain. But the basic facts that constitute the offence must be apparent on the impugned order and the record must bear out the reasons in that regard. The question of giving an opportunity to the public servant at that stage as was contended for the respondents does not arise.”

Therefore, there is no substance in the petition. The petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)