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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

PUBLIC INTEREST LITIGATION NO. 26 OF 2015

Jayashree Ramakant Khadilkar-Pande & Anr. ... Petitioners
vs.
Union of India through the Secretary,
Dept. of Agriculture & Ors. ... Respondents

Mr. Sarnath S. Pramod, Advocate for the petitioners.
Mr. Anurag Gokhale a/w. Mr. A.R. Verma, Advocate for respondent no. 1/UOI.
Mr. H.S. Venegaonkar, Addl. G.P., for respondent no. 3/State.
Mr. Prakash Shinde i/b. MDP & Partners, Advocate for respondent no. 7.
Mr. Pankaj Uttaradhi i/b. M/s. Sabeena Mahadik, Advocate for respondent no. 12.
Mr. Akash Acharya i/b. Mr. S.N. Acharya, Advocate for respondent no. 16.
Mr. J.S. Yadav i/b. Mr. V.B. Tapkir, Advocate for respondent no. 25.
Mr. R.S. Pachundkar and Mr. Sharad Bhosale i/b. Mr. Dilip Bodake, Advocate for respondent no. 26.
Mr. Akshay Kapadia i/b. Mr. Shekhar Jagtap, Advocate for respondent no. 21.

CORAM: A.S. OKA &
MRS. MRIDULA BHATKAR, JJ.
DATE : AUGUST 4, 2016.

P.C.

Heard the learned counsel appearing for the petitioners and the learned counsel representing various respondents. The first substantive prayer in this PIL is for issuance of a writ of mandamus directing the respondents to formulate a scheme for waiver of loans disbursed for the

Emu farming in the State of Maharashtra. The second prayer in the alternative is for issuing a writ of mandamus directing the respondents to release 100% subsidy for repayment of the remaining loans taken for Emu Farming in Maharashtra. The third substantive prayer is very wide. It is for issuing a writ of prohibition restraining the respondents from taking any coercive steps of any nature whatsoever in relation to the repayment of loans or recovery of amounts disbursed for the EMU Farming in the State of Maharashtra. The last substantive prayer is for directing the respondents to release the securities including immovable properties which were taken for securing the advances taken by the farmers in Maharashtra for Emu Farming.

2. As far as the prayer clause (d) is concerned, releasing securities given by the farmers is a matter of contract between the borrowers and the respective banks. In the absence of any loan waiver policy of the respondents, such a writ cannot be issued. Even as regards prayer clause (c), a writ of prohibition restraining the banks and other financial institutions from taking steps to recover the loan amount cannot be issued unless there is a loan waiver scheme.

3. Today, the learned counsel for Union of India has tendered across the bar a copy of the order dated 22nd July, 2016 passed by the Government of India, Ministry of Agriculture and Farmers' Welfare. It records that the order made on 16th December, 2015 by the Government of India in relation to the farmers of the States of Telangana and Andhra Pradesh will also apply to the farmers in the State of Maharashtra. A copy of the order dated 16th December, 2015 is annexed to the order dated 22nd July, 2016. In the order dated 22nd July, 2016, it is observed that the lending banks will have to consider the request of each farmer on merits of each case within the prudential norms of RBI on the restructuring/rescheduling of loan/interest. As far as the loan waiver is concerned, a policy decision has been taken by the Department of not granting loan waiver.

4. As far as first two prayers are concerned, the same relate to be the matters of policy of granting either waiver of loan or 100% or partial subsidy. A writ Court cannot issue a writ directing the respondents to take a particular policy decision.

5. If the petitioners or any other persons have any grievance about the order dated 22nd July, 2016, it is for them to adopt appropriate remedy for

challenging the said order. As observed in paragraph 11 of the said order, an individual borrower can always approach the concerned lending bank to consider the request for restructuring or rescheduling of the loan. In view of the directions issued by the Union of India, the concerned lending bank is bound to consider such request in accordance with law.

6. Subject to what is observed above, no relief can be granted in this P.I.L and the same is accordingly disposed of.

7. At this stage, the learned counsel appearing for the petitioners prays for continuation of ad-interim order dated 20th February, 2015. The said request is opposed.

8. As the said order continues to operate from 20th February, 2016, to enable the petitioners to take appropriate steps in terms of this order, we direct the said ad-interim order shall continue to operate for a period of 8 weeks from today.

(MRIDULA BHATKAR, J.) **(A.S. OKA, J.)**