

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

**REVIEW APPLICATION NO. 171 OF 2013
IN
WRIT PETITION NO. 9689 OF 2010
WITH
CIVIL APPLICATION NO. 14870 OF 2015
WITH
CIVIL APPLICATION NO. 9360 OF 2017**

Dharwa Upsa Jal Sinchan Co-operative
Society, Dharwa Wadi

Petitioner.

Versus

The State of Maharashtra & others

Respondents.

Mr. M.R. Andhale, Advocate for the applicant.

Smt. M.A. Deshpande, Addl. G.P. for respondent No.1.

Mr. K.J. Suryawanshi, Advocate for respondent No.2.

Mr. K.F. Shingare, Advocate for respondent No.2.

Mr. R.P. Bhumkar, Advocate for the Intervenor.

CORAM : **RAVINDRA V. GHUGE
AND
SUNIL K. KOTWAL, JJ.**

Dated : 04-12-2017.

ORAL ORDER :-

1. We have considered the submissions of the learned Counsel for the applicant Society, the learned A.G.P., the learned Counsel for respondent No.2 and for respondent No.5.

2. By this Review Application, the applicant/original petitioner prays for recalling of the order dated 04.10.2013 by which Writ Petition No.9689/2010 was dismissed on the ground that the prayers of the petitioner seeking benefit of the Loan Waiver Scheme of 06.01.2009 cannot be entertained as the loan taken by the petitioner Society was for Lift Irrigation and was not a Crop Loan.

3. We have ourselves scanned through the entire Review Application paper book and the Writ Petition, considering the fact that very little assistance was rendered to us by the learned Advocate for the petitioner.

4. A judgment of this Court dated 30.01.2017 delivered by its Principal Seat in **Writ Petition No.4399/2013** in the matter of **Abdul Majid and others Vs. Union of India and others** is cited before us. We have considered the facts emerging from the said judgment and we do not find that the said judgment would be applicable to the case in hand. The said judgment is on a different issue of Normal Credit Limit and the order of re-auditing the Scheme by the Competent Authority implementing the Agricultural Debt Waiver Scheme and Debt Relief Scheme, 2008 (ADWDRS) formulated by the Union of India. The facts of the said case are totally distinct and different.

5. We find from the document dated 15.06.1998 at page 56 of the Writ Petition, which is the communication to the petitioner Society, that a loan for Rs. 2,40,000/- was sanctioned by letter dated 22.12.1995 and it was disbursed on 31.03.1997, for the purposes of Lift Irrigation. The

issue, therefore, is undisputed that the loan was disbursed on 31.03.1997 as per the said communication dated 15.06.1998.

6. We have gone through the Maharashtra State Agricultural Debt Waiver and Debt Relief Scheme under the Government Resolution dated 06.01.2009. The introduction to the said Government Resolution indicates that Lift Irrigation or loans for irrigation purposes would also be considered under the said Scheme. The decision taken by the State in the said Government Resolution dated 06.01.2009 indicates that there would be a maximum refund limit of Rs. 20,000/- as maximum loan waiver with regard to the loan taken by the small or marginal farmers. The eligibility criteria mentioned in Clause-3 indicates that those agriculturists, who have taken loan prior to 31.03.1997, would be eligible for the benefits of the Scheme. Clause-3 (c) indicates that a co-operative society formed for Lift Irrigation, Poultry, Fisheries and Milk Activities would be entitled to claim the compensation under the said Scheme.

7. From the order dated 04.10.2013, which is sought to be reviewed, we find that the Petition was disposed of for the following reasons :-

- (a) The loan amount was fully recovered from the petitioner society.
- (b) The loan was obtained for Lift Irrigation and was not a Crop Loan.

8. It appears that Clause-3 (c) of the Government Resolution dated 06.01.2009 deciding the eligibility of a Society for loan waiver was not specifically pointed out to us. It includes a Society formed for Lift

Irrigation to apply for agricultural loan. The activity of Lift Irrigation for the purposes of agriculture has not been excluded or barred from the said Scheme. Learned Advocates for the respondents have not been able to point out any specific prohibition under the said Government Resolution dated 06.01.2009 to indicate that under Clause 3 (c) or under any of the clauses of the said Government Resolution, a loan taken for Lift Irrigation has been specifically excluded. Clause-3 (a) to (f) are the various eligibility criteria providing for loan waiver for different purposes.

9. Learned Advocates for respondent Nos.2 and 5 point out that the petitioner Society has already resorted to a one time settlement on 30.06.2010 and thereafter this Petition has been filed. Same proceedings were also taken up before the District Consumer Forum and before the State Consumer Redressal Commission by the petitioner and the latter proceedings have been dismissed in default on 19.01.2016.

10. Since we find that the Primary Agricultural Co-operative Societies like the petitioner representing the below poverty line and marginal farmers, have taken up a ground in the Petition that the Government Resolution dated 06.01.2009 would cover their case even for the purposes of loan having been taken for Lift Irrigation, we are, therefore, of the view that the Writ Petition needs to be re-considered keeping in view the modalities found under the Government Resolution dated 06.01.2009.

11. As such, the Review Application is allowed. The order dated 04.10.2013 is recalled and Writ Petition No.9689/2010 is restored to the

file at the stage at which it was disposed of.

12. List Writ Petition No.9689/2010 before the appropriate Bench as per the present assignment. Needless to state, all the contentions of the petitioner as well as the respondents, including the contentions regarding the proceedings before the State Commission and the one time settlement dated 30.06.2010, are left open.

13. Pending Civil Application No.9360/2017 seeking intervention is disposed of. Nevertheless the said applicant, if so desires, may make an application for intervention in the Writ Petition which will be considered on its own merits. Civil Application No.14870/2015 also does not survive and stands disposed of.

(SUNIL K. KOTWAL)
JUDGE

(RAVINDRA V. GHUGE)
JUDGE