

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 6102 OF 2007

The Laxmi Co-operative Bank Ltd. ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. Girish S. Godbole a/w Mr. Ashok Tajane for the Petitioner.
Mr. A.P. Vanarse, A.G.P. for Respondent Nos.1 to 3.

**CORAM : A.A. SAYED AND
V.L. ACHLIYA, JJ.**

DATE : 25th JANUARY, 2018.

PC. :

1 An affidavit-in-Reply has been filed on behalf of Respondent No.1 Dr. Sudin Popat Gaikwad, Deputy Secretary, Co-operation, Marketing and Textile Department Mantralaya Mumbai. In paragraphs 6 and 7 of the Affidavit-in-Reply it is stated as follows :-

“6. I say and submit that, a combined reading of the abovementioned provisions makes it amply clear that the provisions of the Maharashtra Reservation Act, 2001, are applicable to the co-operative societies established under the Maharashtra Co-operative Societies Act, 1960 in which share capital is held by the Government. Further I say and submit that the Petitioner Bank registered under Maharashtra State Co-operative Societies Act, 1960 is a co-operative society. It is further submitted that the

Government of Maharashtra has not provided any amount to the Petitioner Bank in the form of Share Capital nor has given any aid to the Petitioner either in the nature of Government land at concessional rate or any other monetary concession.

7 *As stated hereinbefore I say and submit that the provisions of section 2(i) of Reservations Act, 2001 are applicable only if the Government is holding Share Capital of any Co-operative Bank or Co-operative Society. In this regards, I submit that since the State Government is neither the Share Holder of the Petitioner Bank nor any assistance/aid in any form has been received by the said Bank from the State Government, the relevant provisions of the Reservation Act, 2001 do not apply to the Petitioner Bank. Therefore, I submit that the posts of the said bank do not fall within the four corners of the term “Public services and posts” as defined under section 2(i) of the Maharashtra State Public Services (Reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Special Backward Category and Other Backward Classes) Act, 2001. As such, the provisions of the Maharashtra Reservation Act, 2001 are not applicable to the Petitioner Bank while filling up the posts.”*

(emphasis supplied)

2 It being an admitted position that the provisions of the Reservation Act, 2001, do not apply to the Petitioner Bank, we allow the Petition in terms of prayer clauses (a) and (c), which read as under :-

a) That this Hon'ble Court may be pleased to issue a Writ of Mandamus and/or any other Writ, Order or Direction in the nature of a Writ of Mandamus thereby directing the Respondent No.2 herein to forthwith withdraw and/or cancel the impugned order dated 5.12.2006 being Exhibit "Z" to this Writ Petition;

c) That this Hon'ble Court may be pleased to hold and declare that the provisions of the Maharashtra State Public Services (Reservation for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Notified Tribes, Special Backward Class Category and Other Backward Classes) Act, 2001, Maharashtra Act No. VIII of 2004 do not apply to the Petitioner and that the Petitioner has no statutory obligation to recruit persons belonging to backward class in its employment either at the time of initial appointment or appointment by promotion;"

3 The Writ Petition to stand disposed of accordingly.

(V.L. ACHLIYA, J.)

(A.A. SAYED, J.)