

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

WRIT PETITION NO.8935 OF 2015

Amit Dhamal .. Petitioner
Vs.
The Kurla Nagri Sahakari Bank & Ors. .. Respondents

Mr.Sanjiv A. Sawant i/by Mr.Abhishek P. Deshmukh for the petitioner.
Mr.P.K. Dhakephalkar, Senior Advocate i/by Mr.Rahul D. Oak for the respondent no.1.
Mr.S.H. Kankal, AGP for the respondent nos.2 & 3-State.

**CORAM : R.D. DHANUKA, J.
DATE : 12th June 2018**

P.C.:

1. By this petition under Article 227 of the Constitution of India, the petitioner has impugned the order dated 3rd September 2014 passed by the learned Minister (Co-operation) allowing the application filed by the respondent no.1 and setting aside the direction issued in the letter dated 2nd April 2013 and 7th April 2014 directing an action based on the report submitted by the Enquiry Officer on 12th February 2013.

2. The petitioner claims to be the shareholder of the respondent no.1 bank. The respondent no.1 had issued an advertisement on 5th November 2011 inviting an application for recruitment of clerks and peons. The respondent no.1 had already recruited 40 employees in the employment some time in the year 2011. The petitioner made various allegations of illegality in the appointment against the respondent no.1 in the recruitment process carried out by the respondent no.1 and demanded an enquiry. The Enquiry Officer made various suggestions by submitting

the enquiry report on 12th February 2013. Since there was no action was taken on the enquiry report, the petitioner had filed a writ petition (2920 of 2012) before this Court against the respondent no1 and others. By an order dated 4th March 2013 passed by the Division Bench of this Court, the said writ petition came to be disposed of. This Court had directed that after considering the said report of the Divisional Joint Registrar, the second respondent shall take appropriate action in accordance with law. This Court however made it clear that this Court has not considered the merits of the challenge of the petitioner and all contentions of the parties are kept open. Pursuant to the order passed by the Division Bench of this Court, the learned Commissioner sent a letter on 7th April 2014 to the Chief Executive Officer of the respondent no.1 suggesting that pursuant to the enquiry report, the action shall be taken.

3. Being aggrieved by the the said order, the respondent no.1 preferred a revision (552 of 2014) under Section 154 of the Maharashtra Co-operative Societies Act, 1960 before the learned Minister. On 3rd September 2014, the learned Minister allowed the said revision application and has set aside the direction issued based on the report submitted by the Enquiry Officer. This order of the learned Minister is impugned in this petition.

4. Mr.Sawant, learned counsel for the petitioner invited my attention to various annexures including the enquiry report and also the order passed by this Court directing the second respondent to take appropriate action in accordance with law after considering the report of the Divisional Joint Registrar. He submits that in the said writ petition, the Division Bench passed an order for taking appropriate action, the

respondent no.1 did not implead the petitioner as a party to the revision application filed before the learned Minister (Co-operation). He submits that the order passed by the learned Minister is in the teeth of the order passed by the Division Bench of this Court.

5. Mr.Dhakephalkar, learned senior counsel appearing for the respondent no.1, on the other hand, submits that the said so called enquiry did not opine any action against the respondent no.1. He submits that the respondent no.1 is not taking aid from the State Government and thus at the first instance, circulars in question issued by the Government which are applicable to the bank getting grant-in-aid were not binding on the respondent no.1. He submits that 40 employees have already been recruited by the bank after following the requisite procedure and they are in employment of the respondent no.1 bank for last more than seven years. They were not impleaded as parties to the earlier writ petition filed by the petitioner nor they are impleaded as parties to this writ petition.

6. It is submitted that the learned Minister has considered all these aspects and more particularly the issue as to whether the Government Directives would have been binding on the respondent no.1 bank though the respondent no.1 was not getting any aid from the State Government. He submits that the learned Minister had rendered various finding of fact in the impugned order and has rightly set aside the impugned order.

7. A perusal of the record indicates that it is not in dispute that the respondent no.1 was not getting any aid from the State Government.

The learned Minister has rendered a finding in this regard in the impugned order. I am inclined to accept the submission of Mr.Dhakephalkar, learned senior counsel for the respondent no.1 that the Government Directives in question which are applicable to the bank getting grant-in-aid could not be binding on the respondent no.1. Be that as it may, a perusal of the record indicates that though those 40 employees which are recruited by the respondent no.1 bank in the year 2011 were neither impleaded as parties to the earlier writ petition nor in this writ petition.

8. A perusal of the Roznama of this writ petition clearly indicates that though various opportunities had been given to the petitioner from time to time to implead those employees who have been recruited by the respondent no.1 bank, no steps are taken to implead those employees. In my view, Mr.Dhakephalkar, learned senior counsel for the respondent no.1 is right in his submission that unless those employees would have been impleaded as parties to this writ petition, no relief could be sought by the petitioner in this petition.

9. A perusal of the letter dated 7th April 2014 issued by the learned Commissioner to the learned Chief Executive Officer indicates that recommendation is made for taking further appropriate action pursuant to the enquiry report submitted by the Enquiry Officer. Since the learned Minister has rightly rendered a finding that such directions were not binding on the respondent no.1 bank, the said directions rightly came to be set aside. A perusal of the order passed by the learned Minister indicates that the learned Minister has also rendered a finding of fact that the recruitment made by the respondent no.1 was properly made.

The finding rendered by the learned Minister being not perverse cannot be set aside by this Court under Article 227 of the Constitution of India. The petition is devoid of merit and is accordingly dismissed. No order as to costs.

R.D. DHANUKA, J.