IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.74 OF 2019

Gajanan S/o. Prabhakar Deshpande,
Age. 53 years, Occ. Agri. & Social Work,
R/o. Kajala, Tq. & Dist. Osmanabad. ...Petitioner.

VERSUS

1. The State of Maharashtra,
Through its Secretary :
Department of Agriculture &
Co-operation & Textile, Mantralaya,
Mumbai – 32

2. The Collector,
Collectorate Office,
Osmanabad, Dist. Osmanabad

3. The District Deputy Registrar,
Co-operative Society, Osmanabad,
Tq. & Dist. Osmanabad

4. The District Central Co-operative Bank,
Osmanabad, Tq. & Dist. Osmanabad.
Through its - Managing Director

5. Dhoki Vishal Vivedh Karyakari Co-operative
Seva Co-operative Sanstha Maryadit Dhoki,
Tq. & Dist. Osmanabad,
Through its – Secretary ...Respondents.

Mr V. V. Ingale, Advocate for petitioner;
Mr P. S. Patil, A.G.P. for respondents/State

CORAM : PRASANNA B. VARALE
AND
R. G. AVACHAT, JJ.

DATE : 2nd July, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. The petitioner, who is an agriculturist is before this Court by way of present public interest litigation on a premise of espousing a cause of the agriculturists, namely, loss to the public exchequer by indulging in an act of obtaining the loan from more than one financial institutes/banks and/or exceeding the limit and thereafter getting benefit under the State Government scheme of loan waiving.

3. We have gone through the material placed on record. The scheme floated by the State Government is placed on record at Exh.'A'. The said scheme is under the title of "Chhatrapati Shivaji Maharaj Shetkari Sanman Yojana-2017”. There cannot be any dispute on the aspect of nature of the scheme which is floated with a laudable object so as to provide the financial assistance to the agriculturists. The preface of the scheme refers to the drought situation being faced by the farmers for nearly four consecutive years i.e. from 2012-13 to 2015-16. It also refers to the unforeseen natural calamities, such as, untimely rain and hail storm. The State Government, in its wisdom thought it fit to consider this issue whereby the agriculturists were

subjected to loss and as such, were unable to repay the loans. Accordingly, in the positive response by the State Government assured through the Honourable Chief Minister on the floor of Assembly, a Committee was constituted to deal with this issue and the comprehensive decision was taken which resulted in the said scheme. Thus, there are details of the scheme, such as, the entitlement of the scheme, the limit of the scheme and the financial provisions to be made by the State Government for implementation of the scheme.

4. Now, it is the submission of learned Counsel for the petitioner that certain agriculturists have obtained the benefit of the scheme by seeking loan waiver of the accounts in various banks i.e. more than one bank. Now, carrying such impression, the petitioner had approached the authorities of the State Government and more particularly the authorities of Co-operative Department. The petitioner had submitted his representation to the District Deputy Registrar, Co-operative Societies, Osmanabad, the Commissioner of Co-operation and Registrar of Co-operative Societies, Pune. Perusal of these representations only reiterate the impression of the petitioner that some of the agriculturists have taken an undue benefit of the scheme and have sought waiver of the loan from more than one bank.

5. With the assistance of learned Counsel appearing for the petitioner, we have gone through the entire scheme of the State Government. On our perusal, we could not find any such rider or prohibition for agriculturists to approach more than one financial institutes/banks for seeking benefit of loan waiving. The petitioner, in support of his submission invited our attention to a document placed on record carrying the title as 'Proposed Questions about the Scheme'. Now, there is a specific reference at Sr. No.21 in respect of obtaining the loans from more than one bank. Perusal of the questions and reply show that there is no such rider or prohibition for opting more than one bank for any loan. It only states that while submitting an application for the scheme, the agriculturists will have to provide information of obtaining such loan from all these banks. Even the reply accepts the position that there is a possibility of having obtained loan from more than one bank.

6. Considering the aforesaid particular aspects, we are of the clear opinion that the scheme nowhere prohibits or creates a rider to the agriculturists for obtaining loan from more than one bank. Now, this is precisely replied in a communication dated 25th February, 2019 forwarded to the petitioner through the District Deputy Registrar, Co-operative Societies, Osmanabad.

7. Thus, we have no hesitation to state that the petition, insofar as this aspect is concerned is based on assumptions and presumptions being carried out by the petitioner as per his understanding of the scheme. Resultantly, we see no reason to entertain the petition, more so, treating this petition as a public interest litigation.

8. Insofar as the another submission of learned Counsel for the petitioner that a mischief in the nature of fraud being played is concerned, in case the petitioner is of an opinion that a mischief has been played which may come under the compass of a criminal act in general and in particular under any provision of the Indian Penal Code, he is at liberty to take appropriate steps by approaching the appropriate forum so as to set criminal law in motion.

The petition, in our opinion, being devoid of any merit, deserves to be disposed of at the threshold and same is disposed of accordingly.

(R. G. AVACHAT, J.) **(PRASANNA B. VARALE, J.)**

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