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

WRIT PETITION NO. 6895 OF 2018

Dnyanesh S/o. Rameshrao Pansambal .... Petitioner

Versus

The State of Maharashtra & Ors. ..... Respondents

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Shri. M. V. Salunke, Advocate for the petitioner
Shri. P. S. Patil, AGP for respondent/State
Shri. N. P. Bangar, Advocate for respondent No. 4

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CORAM : S. V. GANGAPURWALA AND A. M. DHAVALE, JJ.

DATE : 1ST APRIL, 2019

ORAL ORDER:

1. Shri Salunke, learned counsel for the petitioner submits that, the petitioner is basically an agriculturist, however, had started business namely Anuraj Industries for carrying repairing to the distribution transformers required for MSEDCL and for that purpose financial assistance was taken from respondent No. 4 i.e. Cash Credit of Rs. 3,00,000/-. The petitioner tried his level best to run the business and refund the loan installments. The interest is charged more than agreed. The learned counsel submits that the State

Government floated one time settlement policy. The said policy is still in force. The petitioner's case is covered as per the Government Policy dated 15.11.2017 for seeking benefit of one time settlement. The respondent No. 4 / Bank opted for the one time settlement scheme by passing a Resolution on 28.11.2017. The petitioner is entitled to get benefit of OTS scheme. Proposal was submitted on 09.03.2018 with all details. The petitioner also submitted by Demand Draft of 5% amount i.e. Rs. 18,200/- which is also encashed by respondent No. 4 / Bank. The respondent Bank was not considering the proposal. The petitioner made written complaint to the Dy. District Registrar, Cooperative Societies. The said Dy. District Registrar, after hearing the parties, asked the Bank by letter dt. 17.05.2018 to give benefit of one time settlement scheme to the petitioner. In spite of the same, the Bank is not entering into the OTS scheme.

2. Shri Bangar, learned counsel for respondent No. 4 submits that the State Government could not have floated the policy of one time settlement. The respondent no.4 is a Cooperative Bank and banking is a subject matter of Union list. The learned counsel further submits that the petitioner was sanctioned loan amount of Rs.3,00,000/- and the same is disbursed to the petitioner after

executing necessary documents. The outstanding amount is increasing day by day. Recovery certificate under Section 101 of the Maharashtra Cooperative Societies Act is also issued against the petitioner. The Banks are under loss because of big defaulters like the petitioner who obtained lakhs of rupees' loan but did not repay for one or the other reasons. The recovery certificate is intact and same can be enforced. The prayer of the petitioner for settling the loan account as per the OTS Scheme is not maintainable. The petitioner is a willful defaulter. The petitioner is not entitled for the benefit under the Scheme. The policy of one time settlement scheme cannot be said to be invoked as the Reserve Bank of India has canceled the earlier policy by its circular dated 12.02.2018. The petition be dismissed.

3. Whether one time settlement scheme as floated by the Government would be applicable to the petitioner or not will depend upon the various factors enumerated in the said scheme. Clause 3 of Annexure A to the Government Resolution dated 15.11.2017 details the circumstances under which the borrower is not entitled for benefit of one time settlement scheme. Whether the petitioner's case can be considered for one time settlement or not would have to be considered by the Authority.

4. It appears that Resolution was passed by the respondent-Bank to accept the one time settlement scheme.

5. It will be appropriate for the Commissioner of Cooperation to consider the scheme as in force today and to take decision whether the petitioner is disqualified or not from taking benefit of the said scheme. The respondent has also contended that as per the circular of the Reserve Bank of India dated 12.02.2018 one time settlement now cannot be entered into. The same will have to be considered by the Commissioner of Cooperation. He would be a competent person to consider the said aspect.

6. In light of the above, parties may appear before the Commissioner of Cooperation, Pune on 15.04.2019. The Commissioner of Cooperation, Pune shall call for the say of the Bank, so also consider the stand of the petitioner and take a decision as to whether the petitioner is entitled for benefit of OTS scheme as relied by the petitioner, so also the impact of circular of Reserve Bank of India dated 12.02.2018 as may be produced by the Bank. The petitioner and the respondent-Bank may produce all such necessary documents before the Commissioner of Cooperation, Pune on the said date.

7. The Commissioner of Cooperation, Pune shall consider the record that would be produced before him and shall take decision as to whether one time settlement scheme is still in force and as to whether the petitioner is entitled for the benefit of the said scheme. The said decision shall be taken within three (3) months from the date of appearance of the parties.

8. Parties to act on the authenticated copy of this order.

9. Writ Petition is disposed of. No costs.

[A. M. DHAVALE]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde