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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 3450 OF 2016
WITH
WRIT PETITION No. 3452 OF 2016

Jyotirling Sahakari Pani Purvatha
Sanstha Ltd. ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION No. 3451 OF 2016

Sangam Sahakari Pani Purvatha
Sanstha Ltd. ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION No. 3453 OF 2016

Chandrasen Sahakari Pani Purvatha
Sanstha Ltd. ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION No. 3454 OF 2016

Umeshwar Sahakari Pani Purvatha
Sanstha Ltd. ... Petitioner
Vs.
State of Maharashtra & Ors. ... Respondents

WITH
WRIT PETITION No. 3455 OF 2016

Shriram Sahakari Upsa Jalsinchan
Pani Purvatha Sanstha Ltd. ... Petitioner

Vs.
State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION No. 3456 OF 2016

Krishnai Sahakari Pani Purvatha
Sanstha Ltd. ... Petitioner

Vs.
State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION No. 3457 OF 2016

Koteswar Sahakari Pani Purvatha
Sanstha Ltd. ... Petitioner

Vs.
State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION No. 4997 OF 2016

Shri Mahadeo Krishna Deshmane & Ors. ... Petitioners

Vs.
State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION No. 5008 OF 2016

Shri Jinendra Anna Jayappa & Ors. ... Petitioners

Vs.
State of Maharashtra & Ors. ... Respondents

WITH

WRIT PETITION No. 6201 OF 2014

Bhogawati Sahakari Sakhar Karkhana Ltd. ... Petitioner

Vs.
State of Maharashtra & Ors. ... Respondents

Mr. Chetan G. Patil, for the Petitioners in WP. 3450/2016, 3451/2016, 3452/2016, 3453/2016, 3454/2016, 3455/2016, 3456/2016 and 3457/2017.

Mr. S. G. Deshmukh i/b D. B. Shnde, for the Petitioner in WP. 4997/2016,

Mr. Utkarsh Desai i/b Prashant Bhavake, for the Petitioner in WP. 6201/2014.

Ms. S. S. Bhende, AGP for Respondent Nos. 1 and 2 in all petitions, except WP. 6201/2014.

Ms. S. S. Bhende, AGP for Respondent Nos. 1, 3 to 5 in WP. 6201/2014.

Mr. Dilip Bodake, for Respondent No. 3 in WP. 3453/2016, 3454/2016, 3455/2016, 3456/2016, 3457/2016.

Mr. V. B. Rajure, for Respondent No. 3 in WP. 4997/2016, 5008/2016.

Mr. Wasim Samlewale i/b T. S. Ingale, for Respondent No. 2 in WP. 6201/2014.

Mr. Anil Pailwan, Sr. Auditor Marketing, Sangli – Present.

**CORAM : INDRAJIT MAHANTY, &
SARANG V. KOTWAL, JJ.**

DATE : JANUARY 22, 2019

PC :

1. In almost all these petitions, the Petitioners, who are the co-operative societies, registered under the Maharashtra Co-operative Societies Act, 1960, have challenged the action and basically the orders / communications issued by Respondent No. 3 on the ground that the same are issued without giving any show cause notices and hearing, whereby the Petitioners are directed to deposit respective amounts so mentioned in the demand notice / impugned communications.

2. This Court, by the interim orders already protected the Petitioners to the extent of restraining the respondents from the recovery of the amounts, on the basis of the impugned orders / communications, as well as the notices issued under S. 155 of the Maharashtra Co-Operative Societies Act, 1960. We have also noted that the whole action, so initiated by the Respondents, is arising under the Maharashtra State Agricultural Loan Waiver and Loan Repayment Scheme, 2009, on the foundation of an Audit / Inquiry / Objection. In the Affidavits-in-reply filed by the Respondents, there are various allegations made against the respective Petitioners, to justify such action and / or the demand. It may be possible that in the facts and circumstances the demand so raised against the Petitioners are justified and in public interest, however, we do not wish to go into the merits of the same as the basic issue is whether before issuance of the impugned order, the Petitioners were granted an opportunity of being heard.

3. After hearing the parties and on inquiry with the learned AGP, we find that it is not in dispute that no show cause notice was issued and / or any opportunity was given to the Petitioners to defend such action prior to issuance of the impugned notices / communication, demanding the amounts. We are of the opinion that an opportunity needs to be given to the respective Petitioner, Co-operative Society for raising their defence and / or make their respective submissions before any action is taken

against the respective Petitioners for such recovery. Hence, we pass the following order.

ORDER

- (i) All the writ petitions are disposed of setting aside the impugned communications / orders, permitting the concerned Respondents to issue fresh show cause notices to the respective petitioner, Co-operative Society within a period of four weeks from today.
- (ii) Writ Petition Nos. 4997/2016 and 5008/2016 are disposed of, setting aside the impugned communications / orders. However, the concerned Respondents are directed to issue the show-cause notice to the Co-operative Society, of which the Petitioners in both the petitions are members within a period of four weeks from today. The petitioners in these petitions are directed to submit their objections to the show-cause notices to the Co-operative Society, of which they are members, who shall intimate their objections to the concerned Respondents by way of reply to the show-cause notice.
- (iii) The concerned Respondents are directed to decide the objections of the concerned societies and take final decision on the show-cause notices, on merits and in

accordance with law, within 8 weeks, on receipt of reply / objections to said show-cause notices.

- (iv) It is made clear that we have not expressed our opinion on merits of the matters. All points and rival contentions raised by both the parties are kept open.
- (v) It is made clear that the interim orders by which the Petitioners are protected from recovery, shall remain in force till final decision is taken on the show-cause notice by the concerned Respondents. In the event, an adverse order, affecting interest of the Petitioners is passed, the same shall not be implemented for a period of two weeks, from the date of communication of said order to the concerned Petitioner / Society.
- (vi) All the writ petitions are disposed of in the aforesaid terms with no orders as to costs.

Sd/-

[SARANG V. KOTWAL, J.]

Sd/-

[INDRAJIT MAHANTY, J.]

Vinayak Halemath