IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.60 OF 2011
WITH
CIVIL APPLICATION NO.34 OF 2013

Maharashtra Nav Nirman Sena,
Through President of Jalgaon District, Jalgaon
Mr. Jamil Abdul Rauf Deshpande and others ..Petitioners
Versus
State of Maharashtra and others ..Respondents

Ms. Vaishnavi M. Gujarathi I/by Mr. Uday P. Warunjikar, Advocate for the Petitioners.
Mr. M. M. Pabale, AGP for Respondent Nos.1 to 3.

CORAM : PRADEEP NANDRAJOG, C.J. &
NITIN JAMDAR, J.
DATE : 1st AUGUST, 2019

P.C.

1] Heard learned counsel for the parties.

2] The Public Interest Litigation commences with the pleadings that various Co-operative Banks have been registered under the Maharashtra Co-operative Societies Act. That the members of the Co-operative Societies paid a share money to become a member of the Co-operative Society and not only said members made deposits with the Bank but even non-members do so. As per the Petition, the funds generated by the Co-operative Society in the form of share money and deposits was advanced by way of loans and the loans become sticky.

Dealing with the Co-operative Society in the Jalgaon district, it is pleaded that of the 901 Co-operative Credit Societies qua 40 a report, Exh.B, was prepared showing 2,74,468 depositors have deposited ₹ 613.22 crores and that ₹ 103.59 crores deposited was returned to 1,02,300 depositors. The pleadings become hazy at this stage but it appears what the Petitioners want to convey to the Court is that many depositors were left in the lurch because the Co-operative Credit Societies did not have adequate funds on account of loans granted becoming sticky. It is pleaded that in Jalgaon district alone about 5000 cases were filed before the fora constituted under the Consumer Protection Act. It is pleaded that decrees obtained by the depositors could not be executed on account of the Co-operative Credit Societies having no assets or securities. It is pleaded that it appears that the Co-operative Societies advanced loans without obtaining sufficient security. Further pleading is that representations were made to the Collector at Jalgaon who addressed a letter to the Principal Secretary, Co-operation Department requesting that services of Senior Advocate or Advocates having special knowledge regarding Co-operative Laws should be engaged so that cases filed by the Co-operative Societies could be effectively prosecuted.

3] On these pleadings, the following four prayers have been made :-

> *"a) This Honourable Court be pleased to issue writ of Mandamus, or writ in the nature of mandamus or any*

other direction or order directing the respondent herein to place the entire material with reference to the Co-operative Credit Societies in the entire State of Maharashtra, more particularly about the problem of depositors which has been agitated in the above referred petition.

b) That this Honourable Court be pleased to issue a writ of mandamus or writ in the nature of mandamus directing the respondent herein to take appropriate decision on the representation made by the Collector at Jalgaon, dated 22.2.2011 being Annexures F , G & H in the above referred petition within such period as this Honourable High Court may deem fit and proper.

c) That this Honourable Court be pleased to direct the respondent herein to file affidavit stating as to what steps the State is intending to take for protecting the interest of the general depositors of the Co-operative Credit Society which has been agitated in the above referred Public Interest Litigation.

d) During pendency of the above referred petition, be pleased to direct the respondent herein to initiate, take, cause to take and cause to initiate necessary action for recovery of the amount from the defaulters by the Co-operative Credit Societies in the entire State of

> *Maharashtra within such period as this Honourable High Court may deem fit and proper."*

4] Suffice it to state that the prayer made requires the Court to take over the functioning as a special auditor and audit the account of all Co-operative Societies in the State of Maharashtra which are essentially credit and thrift Co-operative Societies.

5] Neither the Court has an expertise to do so nor would it be permissible for Court exercising power under Article 226 of the Constitution of India to do so.

6] The reply brings out that the Co-operation Department in the State of Maharashtra is aware of the problem and has taken steps to appoint administrators of such societies where mal-administration has been detected. The liquidators have also been appointed. The reply further brings out that action was also taken against 104 auditors who were responsible for not conducting proper audit of the Thrift and Credit Co-operative Societies. It is further pleaded that prosecution has been initiated against 2157 officers of the credit Co-operative Societies.

7] The reply brings out that whatever possible steps can be taken are being taken by the State officers.

8] On 27th April 2015, following interim order was passed in the Public Interest Litigation :-

"We have perused the unsigned status report. Learned AGP is instructed by Santosh Patil, officer on special duty, Co-operative Department.

2) On the next date of hearing affidavit shall be filed on following issues.

(i) Progress report in respect of recovery of an amount of Rs.487 Crores from 1633 delinquent directors and employees of the credit societies.

(ii) Status report of the inquiry initiated under section 98, 99 & 88 of Maharashtra Co-operative Societies Act.

(iii) Progress made in amending Maharashtra Co-operative Societies Act in introducing new chapter for regulation of transactions by Co-operative Credit Societies.

3) Learned AGP submits that in the year 2013, stringent norms have been implemented for forming Co-operative Credit Society.

4) We expect State authorities to maintain absolute care and caution in processing the applications for starting a Co-operative Credit Society. Unless authorities *are completely satisfied of the bonafides, compliance of the norms, they shall not grant the permission.*

5) Stand over to 16/06/2015."

9] It is therefore time to close further proceedings in the Public Interest Litigation for the reason this Court has been monitoring the issue since the year 2011 and the reply filed brings out that substantial progress has been made to effect recoveries from the debtors of the Thrift and Credit Co-operative Societies so that the depositors could be refunded amounts they have deposited.

10] We dispose of the Petition directing the Secretary, Department of Co-operation, State of Maharashtra to seek six monthly reports from the Co-operative Societies regarding the steps taken by the societies to recover the dues from the debtors of the society and would pass such orders which would be required to streamline the recovery process.

11] In view of the above, Civil Application No.34 of 2013 does not survive and is accordingly disposed of.

NITIN JAMDAR, J **CHIEF JUSTICE**