

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Thirteenth day of October Two Thousand Twenty

PRESENT

THE HON'BLE THIRU.AMRESHWAR PRATAP SAHI, THE CHIEF JUSTICE

and

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

WMP Nos.18328 and 18354 of 2020

IN WP.Nos.9147 and 9150/2020

BIG KANCHIPURAM COOPERATIVE [PETITIONER IN WMP.18328/2020]
TOWN BANK,NO.3,REP.BY ITS PRESIDENT,
NO.90-91, ANNAI INDRA GANDHI SALAI,
KANCHIPURAM.

THE VELUR CO-OPERATIVE [PETITIONER IN WMP.18354/2020]
URBAN BANK LTD NO.20,
REP. BY ITS PRESIDENT, 32- A, CAUVERY ROAD,
VELUR, PARAMATHI VELUR TALUK,
NAMAKKAL DISTRICT.

Vs

1 UNION OF INDIA [RESPONDENTS IN BOTH THE PETITIONS]
REP. BY ITS MINISTRY OF LAW AND JUSTICE,
4TH FLOOR, A- WING, SHASTRI BHAWAN,
NEW DELHI 110 001.

2 RESERVE BANK OF INDIA
16, RAJAJI SALAI, FORT GLACIS, CHENNAI,
TAMIL NADU 600001.

Petitions praying that in the circumstances stated therein and in the respectively affidavits filed therewith the High Court will be pleased to amend the prayer in WP.Nos.9147/2019 & 9150/19 as

(i) Writ of Declaration or any other Writ or order declaring Sections 4(A), 4(F), 4(G), 4(J), 4(L), 4(M) and 4(Q) of the Banking Regulation (Amendment) Act 2020 No. 39 of 2020 dated 29.09.2020 as ultra vires and unconstitutional for being without legislative competence and violative of Articles 123(3) r/w Articles 246 and Entry 32, List II, Schedule VII of the Constitution of India -

Existing (Instead of) - Writ of Declaration, or any other writ or order declaring Sections 4(A) 4 (F) 4 (G) 4 (J), 4(L), 4 (M) and 4 (Q) of the Banking Regulation Amendment Ordinance,2020 as ultra vires and unconstitutional for being without legislative competence

and violative of Articles 123(3) r/w Articles 246 and Entry 32, list II, Schedule VII of the Constitution of India (in WMP.18328/2020) and;

(2) Writ of Declaration, or any other writ or order declaring Sections 4(A), 4(F), 4(G), 4(J), 4(L), 4(M) and 4(Q) of the Banking Regulation (Amendment) Act 2020 No.39 of 2020 dated 29.09.2020 as ultra vires and unconstitutional for being without legislative competence and violative of Articles 123 (3) r/w Articles 246 and Entry 32, List II, Schedule VII of the Constitution of India -

As Existing (Instead of) - Writ of Declaration, or any other writ or order declaring Sections 4(A), 4 (F) 4 (G) 4 (J), 4(L), 4 (M) and 4 (Q) of the Banking Regulation amendment Ordinance 2020 as ultra vires and unconstitutional for being without legislative competence and violative of Articles 246 and Entry 32, List, II, Schedule VII of the Constitution of India (in WMP.18354/2020)

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of MR.P.H.ARAVIND PANDIAN, AAG ASST. BY MR.L.P.SHANMUGASUNDARAM, Advocate for the petitioner in both the petitions and of MR.R.SHANKAR NARAYANAN, ASGI, Assisted by MR.C.V.RAMACHANDRAMUTHY, SCGSC on behalf of the 1st Respondent and of MR.P.S.RAMAN, SENIOR COUNSEL FOR M/S.KING AND PRATRIDGE, Advocate for the 2nd Respondent the court made the following order:-

(Order of the Court was made by The Hon'ble Chief Justice)

Heard Mr.Aravind Pandian, learned Senior Counsel appearing for the petitioners.

2.During the pendency of the writ petitions, the Ordinance which was under challenge has now seen a transformation into the shape of an Act, which has now been challenged through the present amendment applications seeking the relief on same lines as was prayed for against the Ordinance.

3.We have heard Mr.R.Sankaranarayanan, learned Additional Solicitor General of India and Mr.P.S.Raman, learned Senior Counsel for the Reserve Bank of India.

4.Mr.P.S.Raman, learned Senior Counsel, says that a counter affidavit has already been filed on behalf of Reserve Bank of India and the same has to be reiterated even if a challenge to the Act is being raised.

5.Mr.R.Sankaranarayanan, learned Additional Solicitor General of India submits that he will be attempting to complete his instructions within three weeks in order to file a counter-affidavit, which has not been done till date.

6. In view of the submissions that have been raised and there being hardly any difference between the nature of the challenge raised to the Ordinance and the Act, we find it expedient to allow the amendment applications.

7. Accordingly, the amendment applications are allowed. Let the amendment be carried out and incorporated in the body of the main petitions challenging the Banking Regulation (Amendment) Act, 2020 (Act No.39 of 2020).

8. Learned Additional Solicitor General of India, while filing the counter-affidavit may respond to these composite challenge now which has been brought about through the amendment applications and also keeping in view the arguments that have been recorded by us in our order dated 20.07.2020.

Let the matters be listed on 04.12.2020.

-sd/-

13/10/2020

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE MINISTRY OF LAW AND JUSTICE,
UNION OF INDIA
4TH FLOOR, A- WING, SHASTRI BHAWAN,
NEW DELHI 110 001.

2 RESERVE BANK OF INDIA
16, RAJAJI SALAI, FORT GLACIS,
CHENNAI, TAMIL NADU 600001.

Order

WEB COPY

in
WMP Nos.18328 and 18354 of 2020

IN WP.Nos.9147 and 9150/2020

Date :13/10/2020

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RRI 28/10/2020