IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :12.02.2020
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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No. 14423 of 2014
and M.P.No. 2 of 2014

The Chennai Port Trust Employees,
Co-operative Bank Ltd.,
Rep. By its President,
No.37-B, New No.110, Sembudoss Street,
Chennai - 600 001. ...Petitioner

-vs-

The Reserve Bank of India,
Urban Banks Department, Fort Glacis,
16, Rajaji Salai, P.B.No.40,
Chennai - 600 001. ...Respondent

PRAYER : Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the respondent's orders in Ref. No. UBD (Che) No.Br/630/06.04.010/2011-12 dated 01.11.2011 as confirmed in Appeal Order Ref. No. UBD (Che) No.BR/1232/06.03.003/2013-14 dated 28.01.2014 and Ref. No.UBD (Che) BR/1747/06.03.003/2013-14 dated 14.05.2014 field and marked as Ex 'A', 'B' and 'C' respectively and quash the same.

For Petitioner : Mr. M.Ravi

For Respondents : Mr. T. Poornam
Standing Counsel

ORDER

Heard Mr.M.Ravi, learned counsel for the petitioner and Mr.T. Poornam, learned Standing Counsel for the respondent.

2. With consent of learned counsel on either side, this writ petition itself is taken up for final disposal.

3. The petitioner seeks for a writ of certiorari, to quash the proceedings of respondent Reserve Bank of India in its orders dated 01.11.2011, 28.01.2014 and 14.05.2014. The petitioner is a Co-operative Bank called Chennai Port Trust

Employees Co-operative Bank Limited.

4. By the impugned order, the respondent has levied penal interest on the petitioner for the short fall in maintenance of the Statutory Liquidity Ratio (for brevity 'SLR') during the period April 2009 to July 2010 and December 2010. On receiving the said order, the petitioner sought for waiver of the penalty. This was considered and rejected by the respondent by order dated 01.11.2011. Subsequently, another representation was made on 21.11.2011 producing the Non-Utilisation certificate issued by the Chennai Central Co-operative Bank and submitted that no liquidity crisis has arisen during the period from 01.04.2009 to 31.03.2011. This was followed by another representation dated 20.02.2012. This was considered by the respondent and by communication dated 28.01.2014, the representations were not entertained and the petitioner was advised to make the payment of penal interest.

5. Subsequently, another representation was made on 21.03.2014 to the Executive Director of the Reserve Bank of India. By communication dated 14.05.2014, the respondent maintained its earlier stand stating that request for waiver of penal interest cannot be entertained. Challenging these orders, the petitioner is before this Court.

6. Though several grounds were raised in the writ petition and vehemently argued by Mr.M.Ravi, learned counsel for petitioner, the first question, which falls for consideration is whether the petitioner is entitled to ask such a relief under Article 226 of the Constitution of India. Admittedly, the petitioner is a Co-operative Banking Society falling within the definition of Banking Statute as well as governed by the regulations framed by the Reserve Bank of India, as amended from time to time. In fact, the Reserve Bank of India is the approving authority to enable the petitioner to carry on banking business. The Act provides for SLR and this is a statutory requirement and if according to the petitioner he met the statutory requirement, obviously show cause notice would not have been issued. There is only a small interpretation that too for the first time by way of rejoinder affidavit stating that the SLR has been perfectly maintained throughout the disputed period, right from 13.03.2009 till 25.02.2011.

7. The Divison Bench in Writ Appeal Nos.940, 942, 945 and 951 of 2019 dated 22.04.2019 considered the scope of Reserve Bank of India fixing the higher Net Owned Fund for non-banking financial companies. In the said decision, while considering the scope of Reserve Bank of India Act qua the jurisdiction of a

Writ Court, it has been held as follows:

> "30.The RBI Act was enacted as an Act to constitute the Reserve Bank of India to regulate the issue of bank notes and keeping of reserves with a view to securing monetary stability in the country and generally operate the currency and credit system of the country to its advantage. Given the scope of the RBI Act, there is a little room for discretion to be read into the statutory provision. This is more so because, Section 45-IA of the RBI Act falls in Chapter III-B exclusively devoted to NBFCs. Thus, the Writ Court cannot substitute the decision of the financial experts on such issues especially when, the purpose of fixing higher NOF has been explained by the appellants. Thus, it is expected that the appellants exercise their powers in a judicious manner and take a decision in accordance with law."

8. As rightly pointed out by Mr.T.Poornam, learned Standing Counsel for the respondent that the stand before the authorities at earlier point of time, in fact the prayer before the authorities, was to grant extension of time for payment of penal interest. In any event, this Court exercising jurisdiction under Article 226 of the Constitution of India cannot examine as to whether the restrictions imposed under the Banking Regulations Act or under the Regulations of Reserve Bank of India, are just and reasonable. The Reserve Bank of India, being a statutory body, these matters are best left for its decision. That apart, the petitioner having accepted the registration as a banking organisation is bound by the regulations as well as the statutory provision and cannot wriggle out of the same. According to the petitioner, there has been effective and full compliance of the requirement. However, from the order impugned before this Court, this Court finds no merit in the said plea.

9. Thus, for all the above reasons, this Court is not inclined to entertain the writ petition. In the result, the writ petition fails, the same is dismissed and the interim order stands vacated. No costs. Connected miscellaneous petition is closed. However, it is well open to the petitioner to approach the concerned authority, if according to them, they satisfy the requirement.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To

The Reserve Bank of India,
Urban Banks Department, Fort Glacis,
16, Rajaji Salai, P.B.No.40,
Chennai – 600 001.

+1 cc to Mr.M.Ravi Advocate sr11753

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gj(co)
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