IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2665 OF 2015

Mr. Diliprao Gangaram Kale (since deceased) through his legal heirs and representatives through Mr. Nitin Diliprao Kale & Ors. … Petitioners

Vs.

The Executive Director, RBI and Anr. … Respondents

Mr. Anil Anturkar, Senior Advocate a/w Mr. Sandeep Phatake for Petitioner.

Mr. Venkatesh Dhond, Senior Advocate, Mr. Prasad Shenoy, Senior Advocate a/w Ms. Aditi Phatak i/by BLAC Co. for Respondent No.1 (RBI)

Mrs. P.J. Gavhane, AGP for State- Respondent no. 2

Mr. Kirit Hakani a/w Niyati Mankadefor Respondent no. 3

CORAM : S.V. GANGAPURWALA & MADHAV J. JAMDAR, JJ.

DATED : 23rd AUGUST 2022

P.C. :

1. The original writ Petitioner was the former Chairman of the Shri Jyotiba Sahakari Bank Limited, Pimpri, Pune. During the pendency of the Writ Petition, he died. The legal heirs of the Petitioner are brought on record.

2. The license of the bank namely Shri Jyotiba Sahakari Bank Limited, Vijay Nagar, Kalewadi, Pimpri, Pune is cancelled under the impugned order passed by the Reserve Bank of India. The appeal filed

under Sub-Section 5 of Section 22 of the Banking Regulation Act, 1949 is dismissed by the Ministry of Finance. Aggrieved thereby the present petition.

3. Mr. Anturkar, learned Senior Advocate for the Petitioner submits that the impugned order is passed without jurisdiction. Under Sub-Section 4 of Section 22, the Reserve Bank may cancel a license granted to a Banking company only on condition enumerated of Sub-Section 4 of Section 22 are satisfied. In the present case, the Bank did not cease to carry on the banking business. No conditions were imposed under Sub-Section 1 and the grounds enumerated in Sub-Section 3 and Sub Section 3(a) of Section 22 are only required to be considered at the time of grant of license and not for cancellation of the license. In light of that, according to the learned Senior Advocate, the order cancelling the license is *perse* illegal and deserves to be set aside.

4. Mr. Dhond, the learned Senior Advocate for Reserve Bank of India submits that the words "if at any time" appearing in Sub-clauses (ii) and (iii) of Sub-Section 4 of Section 22 has its own

relevance. The grounds enumerated in Sub-Section 3 of Section 22 are not limited at the time of grant of license. If the banking company fails or is not in a position to pay its present depositors and or the affairs of the Company are conducted in a manner detrimental to the interest of the present depositors, Sub-Section 4 of Section 22 of the Act, 1949 would come into operation.

5. Learned Advocate for Respondent no. 3 submits that the liquidation proceedings are already concluded, the Petitioners have no locus standi. The Petitioners are the legal heirs of the deceased, former Chairman, they do not have any locus standi to file the present petition.

6. We asked Mr. Anturkar, the learned Senior Advocate for the Petitioner as to whether the legal heirs of the deceased original writ Petitioners are the members of the Bank. Mr. Anturkar, learned Senior Advocate on instructions of the instructing Advocate affirms that they are not the members of the bank. In that event, they could not get any locus standi to prosecute the present petition.

7. Even otherwise, it has been stated that the liquidation proceedings have travelled further and is on the verge of completion.

8. The clauses of Sub-Section 4 of Section 22 are specific. For ready reference, we reproduce Sub-Section 4 of Section 22 and Sub-Section 3 of 3(A) of Section 22.

> "22. **Licensing of banking companies**.-
> (1) .....
> (2) .....
> (3) Before granting any licence under this Section, the Reserve Bank may require to be satisfied by an inspection of the books of the company or otherwise that (***) the following conditions are fulfilled, namely:--
> ....
>
> (3-A) Before granting any licence under this section to a company incorporated outside India, the Reserve Bank may require to be satisfied by an inspection of the books of the company or otherwise that the conditions specified in sub-section (3) are fulfilled and that the carrying on of banking business by such company in India will be in the public interest and that the Government or law of the country in which it is incorporated does not discriminate in any way against banking companies registered in India and that the company complies with all the provisions of this Act applicable to banking companies incorporated outside India.]
>
> [(4) The Reserve Bank may cancel a licence granted to a banking company under this section.-

> (i) if the company ceases to carry on banking business in India; or
>
> (ii) if the company at any time fails to comply with any of the conditions imposed upon it under sub-section (1); or
>
> (iii) if at any time, any of the conditions referred to in sub-section (3) [and sub-section (3-A)] is not fulfilled.
>
> Provided that before cancelling a licence under clause (ii) or clause (iii) of this sub-section on the ground that the banking company has failed to comply with or has failed to fulfil any of the conditions referred to therein, the Reserve Bank, unless it is of opinion that the delay will be prejudicial to the interests of the company's depositors or the public, shall grant to the company on such terms as it may specify, an opportunity of taking the necessary steps for complying with or fulfilling such a condition."

9. Clause 3 of Sub-Section 4 of Section 22 specifically states that "if at any time", any of the conditions referred to in Sub-Section 3 of Sub-Section 3(A) is not fulfilled, the Reserve Bank of India may cancel the license granted to a banking company under this Section. The words "if at any time" have its own relevance and connotation. "If at any time" would also refer to the existing position, when the bank decides to take an action. The words "if at any time" cannot be restricted to a situation anterior to the grant of license.

10. In the light of above, no case for interference is made out.

11. The Writ Petition is dismissed. No costs.

(MADHAV J. JAMDAR, J) (S.V. GANGAPURWALA, J)