

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6556 OF 2017

A. P. Patil Sarvoday Gram Bigar Saheti Sah.
Pat Sanstha Ltd. through Chairman ... Petitioner.

V/s.

Union of India through,
Ministry of Finance and Ors. ... Respondents.

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Mr. Dhairyasheel Sutar for the Petitioner.
Mr. S. H. Kankal, AGP for Respondent Nos. 2 and 4.
Mr. Parag Vyas for Respondent No. 1.
Mr. Anand Patil for Respondent No. 6.

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**CORAM : NITIN JAMDAR, AND
MANJUSHA DESHPANDE, JJ.**

DATE : 31 October 2023.

P.C. :

The Petitioner is one of the depositors with Respondent No. 5- Co-operative Bank under liquidation. This Petition is filed in March 2017 seeks directions to expedite the liquidation process in respect of Respondent No. 5- Bank, distribute the assets including to the depositors and take necessary action against the Director. The Petition discloses that the liquidation process was initiated in 2008 and till 2017 no steps were taken. The order dated 4 May 2021 which is sought to be placed on record by way of amendment refers

to Section 109(1) of the Maharashtra Co-operative Societies Act, 1960 and it states that the liquidation proceedings shall be closed within six years from the date the Liquidator takes over the custody or control of all the property and the Registrar shall not grant any extension. The outer limit for extension is also specified under the same Section. Rule 89(17) of the Maharashtra Co-operative Societies Rules, 1961 states that on conclusion of the liquidation proceedings, unrealized assets and unrealized actionable claims, will vest in the Registrar, who may appoint a custodian or receiver, to realize such remaining assets and credit the same to the surplus. Accordingly, a Custodian is appointed by the District Deputy Registrar. Even as regards the action taken by the Custodian, the learned AGP for the State is not aware.

2 We have perused the affidavits filed in this Petition. A reply is filed by the Assistant Registrar Co-operative Societies, Shirol, Kolhapur on 26 July 2018 listing the steps taken and the status of the liquidation proceedings. He has stated that the affidavit was filed when nine and half years liquidation period was completed. It is stated that at that time out of total outstanding dues of loans Rs.22.77 Crores, Rs. 1.99 Crores were recovered and as per the balance-sheet of the Bank ending as on 30 June 2018, deposits payable to the depositors were Rs.8.17 Crores and the other dues were payable to the Deposit Guarantee Insurance Corporation. Thereafter in the affidavit steps taken have been listed as regards

issuance of recovery certificate and the attachment and sale of the properties. There is also a reference to pending proceedings and the award passed against the debtors.

3 From all these reports and documents on record it is clear to us that though efforts are stated to be made by the Respondent-Authorities, substantial progress has not been made. Almost for a period of ten years the liquidation proceedings went on. Thereafter, as per the statutory provision as above, instead of Liquidator now Custodian is appointed. The Custodian will have to take the matter further as per the provisions of the Act. However, taking note of the slow progress of recovery of loans in respect of this Bank, certain supervision is necessary, even on the functioning of the Custodian. According to us, a Senior Officer from the Cooperation Department should maintain the progress of the Custodian. With that objective in mind, we direct that the Custodian- the added Respondent will submit six monthly report to the Commissioner for Co-operation, Pune, setting out the progress in respect of the task entrusted to the Custodian.

4 The Commissioner for Co-operation will ensure that such a report is submitted by the Custodian to Commissioner office. If the report is not submitted, the Commissioner will be entitled to take such disciplinary action as may be permissible. If the Petitioner or any depositor seeks copy of such status report, they will be entitled to

the same, unless the Commissioner for Co-operation finds for justifiable reason that such certain information need not be shared with the depositors. According to us, this supervision will bring transparency in the process to be adopted by the Custodian and also bring discipline in the actions of the Custodian. If the Petitioner or any other depositor is of the opinion that the progress of the Custodian is unduly slow then they can make a complaint/representation to the Commissioner for Co-operation, Pune, who will look into the same and issue necessary directions.

5 We have entrusted the responsibility on the Commissioner for Co-operation, Pune, though the Custodian is under the direction of the Assistant Registrar, because it is necessary that a Senior Officer should look into the issue in this case. With these observations, the writ petition is disposed of.

(MANJUSHA DESHPANDE, J.)

(NITIN JAMDAR, J.)