

vai

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
ANANDRAO
IDHOL

Digitally signed by
VASANT
ANANDRAO IDHOL
Date: 2023.01.17
11:27:32 +0530

INTERIM APPLICATION NO.4184 OF 2021
IN
WRIT PETITION NO.8997 OF 2021
WITH
PUBLIC INTEREST LITIGATION NO.194 OF 2004

The Liquidation Committee,
Bhudargad Nagari Sahakari Patsanshta Ltd. ...Applicant

IN THE MATTER BETWEEN :

Subhash M. Ambike & Ors. ...Petitioners

V/s.

State of Maharashtra & Ors. ...Respondents

Mr.B.V. Samant, AGP for the State – Applicant.

Mr.Tejesh Dande with Mr.Chinmay Deshpande, Mr.Pratik Sabrad and Mr.Vikrant Khare i/b Tejesh Dande & Associates for Liquidation Committee – Applicant and for the Respondent No.4 in PIL No.196 of 2004.

Ms.Priyanka B. Babar i/b Mr.Tejpgal S. Ingale for the Respondent No.6 in IA No.3028 of 2021.

Mr.Ashutosh Kulkarni, *Amicus Curiae* in PIL No.196 of 2004.

Mr.Anil B. Prabhu – Applicant in person in CAI 33 of 2007 in PIL 194 of 2004.

CORAM : R.D. DHANUKA &
M.M. SATHAYE , JJ.
DATE : 10TH JANUARY, 2023.

P.C. :-

1. By this Interim Application, the Liquidation Committee of

Budargad Nagari Sahakari Patsanstha seeks extension of time for taking various steps in respect of liquidation of the said Bhudargad Nagari Sahakari Patsanshta Limited upto 31st December, 2023. By an interim order passed by this Court on 20th December, 2021, this Court after recording various extension of time till 31st December, 2022 directed to place on record, by way of a status report, whatever steps that have been taken by it to complete the process. This Court made it clear that further orders, if any, are proposed to be passed considering the status report.

2. In pursuance of the said order dated 20th December, 2021, the Chairman of the Liquidation Committee filed an additional affidavit along with the status report on 30th November, 2022. In the said additional affidavit, the Applicant has brought on record the financial position of the Applicant society, including the disputed liability and repayment of financial aid. The Applicant has also explained the procedure required to be followed for repayment of loan by way deposit matching to be submitted to the learned *Amicus Curie* for its scrutiny and and thereafter such proposal to be placed before this Court for approval. The affidavit further indicates the steps taken so far after the date of the last order passed by this Court. The Applicant society has paid Rs.28.34 lakhs to 1185 small depositors till 30th November, 2022 and seeks time for payment of compensation, if any

and other liquidation proceedings till 31st December, 2023.

3. At this stage, learned counsel for the Applicant and Mr.Ashutosh Kulkarni, learned *Amicus Curiae* in the Writ Petition and in the Public Interest Litigation invited our attention to proviso to Section 109(1) newly amended to Maharashtra Co-operative Societies Act No.30 dated 28th December, 2022 and submitted that according to the said proviso, the State Government has no power to grant further extension beyond ten years after granting initial extension and the said extension is restricted to fifteen years. Learned counsel however, placed reliance on the order of the Hon'ble Supreme Court passed on 10th January, 2022 in Miscellaneous Application No.21 of 2022 in Miscellaneous Application No.665 of 2021 in *Suo Motu Writ Petition (Civil) No.3 of 2020* and submitted that the Hon'ble Supreme Court had clarified that the period from 15th March, 2020 till 28th February, 2022 shall also stand excluded in computing the periods prescribed in the said paragraph.

4. It is vehemently urged that by virtue of the said extension granted by the Hon'ble Supreme Court during the period 15th March, 2020 till 28th February, 2022, the proceedings which would have been already terminated are also saved. It is submitted that by virtue of the amendment to the proviso to Section 109 of the Maharashtra Co-

operative Societies Act, 1960, if upon expiry of fifteen years from the date of liquidation of the said Sanstha, Liquidation proceedings would have come to an end in view of the order passed by the Hon'ble Supreme Court, by excluding the period prescribed in the said order i.e. for the period from 15th March, 2020 to 28th February, 2022. We are inclined to accept the submission made by the learned counsel for the Applicant and supported by the learned *Amicus Curie* appointed by this Court.

5. A perusal of the order passed by this Court on 20th December, 2021 also records that, there was no opposition to the extension sought by the Liquidator.

6. In our view, the Applicant has taken few steps after passing of the order by this Court granting one year's extension, though there was prayer for extension of time upto 31st December, 2023.

7. We accordingly pass the following order :-

a). Time granted by this Court by an order dated 15th December, 2020 for taking various steps in respect of Bhudargad Nagari Sahakari Patsanshta Limited upto 31st December, 2021 is extended upto 31st December, 2023. The Applicant shall file a report before this Court every quarterly. The matter shall be placed on board for further directions upon receipt of such report to be submitted

quarterly by the Applicant.

b). The Applicant shall also submit a report and to indicate whether any further amount can be released in favour of the depositors and mode and manner of such distribution. This Court will pass further orders for deposit after considering the report that would be submitted by the Applicant within three months from today.

c). The Applicant shall take steps for recovery of assets of Bhudargad Nagari Sahakari Patsanshta Limited if any expeditiously without any further delay. We direct the State Government to explore the possibility of merger of Bhudargad Nagari Sahakari Patsanshta Limited with any other co-operative bank, as may be permissible in law. The State Government may also apply for providing financial assistance to the Reserve Bank of India to Bhudargad Nagari Sahakari Patsanshta Limited by making a representation within four weeks from today. If any such representation is made, the Reserve Bank of India shall consider the said representation sympathetically but on its own merits within four weeks from the date of such receipt of the representation. The report shall be submitted ten days in advance before the next date with a copy to be served upon the learned *Amicus Curiae* and the learned counsel for the petitioner. The learned *Amicus Curiae* to submit the proposal duly vetted by him for consideration of this Court periodically and at least once in two

months. Once the report is received from the learned *Amicus Curiae*, the office is directed to place the matter at the earliest before the concerned Bench for further directions.

d). Place the matter on board under the caption of directions on 17th April, 2023 for passing further orders. Parties to act on the authenticated copy of this order.

(M.M. SATHAYE , J.)

(R.D. DHANUKA, J.)