IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.3010 of 2020

Achalpur Vyapari Sarafa Association, Paratwada

Versus

The State of Maharashtra and others

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders.	Court's or Judge's order

Shri S.P. Bhandarkar, Counsel for Petitioner.
Shri S.A. Ashirgade, Additional Government Pleader for Respondents.

CORAM : A. S. CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.
DATE : 31st JULY, 2023.

P. C. :

1. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The challenge raised in the present writ petition is to the communication dated 5-11-2020 in the matter of demand for licence fee under Section 12 of the Maharashtra Money Lending (Regulation) Act, 2014 (for short, 'the Act of 2014'). By the said communication, the demand for licence fee as made by the District Deputy Registrar, Co-operative Societies as well as the District Registrar (Money Lending), Amravati requiring the members of the petitioner-Society to pay the licence fee on the basis of the maximum capital sum invested in the money lending business on a particular day to the extent of 1% thereof or Rs.50,000/- whichever is less is under challenge.

3. The learned counsel for the petitioner by referring to the various provisions of the Act of 2014 submits that under Section 12 read with its Explanation, an inspection fee can be levied on the basis of the highest total amount of capital sum that may remain invested in the money-lending business on any day during the period of licence. The term of licence under Section 10 of the Act of 2014 is from the date on which it was granted till 31st day of March following. It is pointed out that this very issue has been considered by the learned Single Judge in Writ Petition No.3313 of 2014 (*Achalpur Sarafa Vyapari Association, Paratwada* Versus *The State of Maharashtra and others*) by

judgment dated 24-7-2015. It has been held therein after considering the reply filed by the respondents that the expression 'maximum capital' means the highest total amount of the capital sum that may remain invested in money lending business. The total amount invested for the entire period of licence is not relevant for determining the amount of inspection fee. It is submitted that thereafter in Writ Petition No.1662 of 2017 (*Achalpur Sarafa Vyapari Association, Paratwada* Versus *The State of Maharashtra and others*) decided on 22-6-2018, a similar view has been taken and the respondent No.2 therein has been directed to re-determine the amount of inspection fee in accordance with the interpretation of Section 12(1) of the Act of 2014. It is thus submitted that the impugned communication dated 5-11-2020 requiring the members of the petitioner-Association to pay the inspection fee in a manner contrary to Section 12(1) of the Act of 2014 is liable to be quashed .

4. The learned Assistant Government Pleader appearing for the respondents has relied upon the judgment of the Division Bench in Writ Petition No.163 of 2020 (*Mohit S/o Nitin Kumar Pugliya* Versus *The State of Maharashtra and others*) decided on 23-7-2020. It has been clarified in the said judgment that the expression 'maximum capital' refers to the highest total amount of investment made in the money-lending business that has remained in balance on a particular day during the period of licence. In other words, it refers to the highest of all the closing balances on a particular day during the period of licence. It is therefore submitted that in accordance with the aforesaid decision, the impugned communication has been issued.

5. We thus find that the provisions of Section 12(1) of the Act of 2014 have been considered in the aforesaid decisions to mean the highest total amount of the capital sum that may remain invested in the money-lending business on any day during the period of licence.

6. It is pointed out that the amount demanded as per the various demand notices issued by the respondents is not in accordance with the aforesaid interpretation of Section 12(1) of the Act of 2014. By placing the pursis dated 30-1-2023 on record, the manner in which the demand for inspection fee has been made and the actual amount due as per the aforesaid interpretation has been indicated. We find that it would be therefore necessary for the respondents

to raise a demand for inspection fee in accordance with the provisions of Section 12(1) of the Act of 2014.

7. In view of aforesaid, the following order would serve the ends of justice :

(i) The notices issued to 25 members of the petitioner-Association which are annexed as Annexure-I to the writ petition are quashed with liberty to the respondents to issue fresh notices in accordance with the provisions of Section 12(1) of the Act of 2014.

(ii) The respondent No.3 shall re-determine the amount of inspection fee to be paid by the noticees mentioned therein after considering the provisions of the said Act. Without prejudice to the rights of the parties, the noticees mentioned in the Annexure-I shall deposit sum of Rs.25,000/- each as inspection fees with the respondent No.2 within a period of four weeks from today subject to final adjudication. In case it is found that lessor amount of inspection fee is payable, the extra amount paid shall be adjusted in the following year while renewing the licence.

(iii) The points raised in the petition are kept open for being considered by the respondent No.3.

8. Rule is made absolute in the aforesaid terms. No costs.

(MRS. VRUSHALI V. JOSHI, J.) **(A. S. CHANDURKAR, J.)**

LANJEWAR