IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.10967 OF 2024

Rajgadh Sahakari Sakhar Karkhana Ltd.,	]	
Tal. Bhor, Dist. Pune	]	.. Petitioner
Versus		
1. State of Maharashtra,	]	
Through the Chief Secretary	]	
2. The Committee of Ministry,	]	
Through Co-operative, Marketing and	]	
Textile Department, Mantralaya, Mumbai	]	
3. National Co-operative Development	]	
Corporation, Pune	]	.. Respondents

Mr. Vineet Naik, Senior Advocate, with Mr. Balasaheb Deshmukh and Mr. Aditya Vijay Sawant, Advocates for the Petitioner.

Dr. Birendra B. Saraf, Advocate General, with Mr. P.P. Kakade, Government Pleader, Mr. B.V. Samant, Additional Government Pleader and Mr. S.P. Kamble, Assistant Government Pleader for Respondent Nos.1 and 2.

CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ

DATE : 6TH SEPTEMBER, 2024.

P.C. :

1. Heard.

2. The petitioner – a Co-operative Sugar Factory has raised a challenge to the decision of the Sub-Committee constituted under Government Resolution dated 4th May 2023 to the extent it has been excluded from being granted "marginal money loan routed through the Government of Maharashtra", which loan is sought from the National Co-operative Development Corporation – NCDC.

3. It is the case of the petitioner that it is duly registered under the provisions of the Maharashtra Co-operative Societies Act, 1960 and has a membership of 13,705. The Co-operative Department of the State Government on 4th May 2023 framed a policy so as to enable Co-operative Sugar Factories from availing the benefit of margin money loan either through the NCDC or with the intervention of the State Government. Under the said Government Resolution, the manner in which such finance could be sought either directly from the NCDC or through a proposal routed through the State Government has been laid down. Accordingly, on 6th March 2024, the petitioner made a request for sanction of margin money loan routed through the State Government for an amount of Rs.150 crores. The said request was made to the Commissioner of Sugar, Pune. After examining the said proposal, the Commissioner of Sugar forwarded the said proposal to the Department of Co-operation, Marketing and Textiles observing that the said proposal could be considered for an amount of Rs.80.90 crores.

4. A meeting of the Sub-Committee constituted under the Government Resolution dated 4th May 2023 was held on 12th March 2024. It was resolved to accept the proposals of thirteen Sugar Factories for margin money loan to be routed through the State Government. Insofar as the petitioner is concerned, the amount proposed was Rs.80 crores. The said

decision was to be submitted to the Finance Department for approval and after the proposal was accepted by the NCDC, further steps were to be taken.

5. Thereafter on 28th June 2024, a communication was issued by the NCDC to the Department of Co-operation, Marketing and Textile stating therein that sanction was granted by the NCDC for margin money loan of Rs.1,898 crores, which included a margin money loan to the petitioner. However, on 23rd July 2024, another meeting of the Sub-Committee was held in which a final decision was taken with regard to the earlier proposals that were considered on 3rd July 2024 and 16th July 2024. Insofar as the case of the petitioner is concerned, the Sub-Committee noted that in their proposal certain deficiencies were noted. Hence, subject to removal of said deficiencies, the consideration of its proposal was being deferred. Five other Sugar Factories were found eligible for grant of margin money loan and their names were included in the list. This aspect was informed to the NCDC by the Department of Co-operation, Marketing and Textiles on 24th July 2024. It is in this backdrop that the petitioner being aggrieved by deletion of its name from the list of Sugar Factories found eligible for grant of margin money term loan that the present writ petition has been filed.

6. Mr. Vineet Naik, learned Senior Advocate for the petitioner

submitted that the claim of the petitioner for grant of margin money term loan having been found to be eligible and then recommended by the Sub-Committee on 11th March 2024, there was no justification whatsoever for the said Sub-Committee to re-consider the petitioner's proposal and thereafter defer its consideration on the ground that there were deficiencies in the same. Referring to the exercise undertaken prior to the proposal being considered by the Sub-Committee as well as the recommendation made by the Commissioner of Sugar, it was submitted that the fact that on an earlier occasion loan had been taken from the NCDC had been disclosed by the petitioner in its application. This was referred to by the Commissioner of Sugar. It was thereafter that the matter was considered by the Sub-Committee and it found it appropriate to recommend the petitioner's name for release of margin money loan to the extent of Rs.80 crores. This was after considering all relevant factors. Reference was made to the provisions of Government Resolution dated 4th May 2023 and it was submitted that a No Dues Certificate came to be issued by the NCDC with regard to the amounts advanced to the petitioner earlier. Reference was made to the communication dated 23rd August 2016 in that regard wherein it was stated that there was no outstanding amount against the disbursement of margin money loan of Rs.20 crores earlier. There was no material on record to indicate as to what transpired between 12th March 2024 when the petitioner's proposal was approved and 23rd

July 2024 when the Sub-Committee noticed certain deficiencies in the said proposal. Attention was invited to the proposals of other Sugar Factories to urge that despite deficiencies in such proposals, they were accepted while the proposal of the petitioner was found to be deficient. It was urged that in view of the discriminatory approach of the respondents, appropriate relief be granted to the petitioner and a direction be issued to include the name of the petitioner for grant of margin money loan routed through the Government of Maharashtra.

7. Dr. Birendra Saraf, the learned Advocate General for respondent nos.1 and 2 opposed the aforesaid submissions. He referred to the affidavit-in-reply filed on behalf of the said respondents and submitted that the proposal of the petitioner for grant of margin money loan had not been rejected. Its consideration had been deferred subject to the deficiencies being removed by the petitioner. Thus, as of date, there was no cause of action for the petitioner to approach the Court. Referring to the communication dated 28th June 2024 issued by the NCDC, it was submitted that the sanction granted by NCDC was valid till 30th June 2025. Subject to necessary compliances being made, the proposal of the petitioner would be considered in accordance with the policy. It was then submitted that the petitioner was seeking relief in the nature of writ of mandamus against the respondent nos.1 and 2. The grant of margin money loan routed through the State Government was based on the policy

dated 4th May 2023 and subject to complying with all requirements, a claim in that regard could be considered. It was an admitted position that the petitioner had not approached the NCDC directly but was seeking margin money loan routed through the State Government. As the State Government was required to ensure repayment of the money advanced, it was entitled to verify the proposal till it was finally approved. Merely because the Sub-Committee in its meeting held on 12th March 2024 found the petitioner's proposal worth consideration, the same did not preclude the respondents from verifying the same. The No Objection Certificate sought to be relied upon by the petitioner merely indicated that no dues were payable to NCDC. The fact however was that the petitioner had made a proposal for converting its dues into share capital in favour of the State Government. The said proposal was still pending with the State Government and therefore it could not be said that no amount was due and payable to the State Government. This fact was also clear from the minutes of the meeting that was held on 23rd July 2024. It was further submitted that without impleading other Sugar Factories, it was not open for the petitioner to contend that said Sugar Factories were not entitled to margin money loan. Placing reliance on the decision in *Union of India and Anr. Vs. International Trading Co. and Anr., 2003 INSC 284*, it was submitted that unless it was shown that the policy decision taken by the respondents was unreasonable, there was no cause to interfere in exercise of writ jurisdiction. Since the decision involved financial implications, the respondents were entitled to examine and review their earlier decision. As the reason for deferring the petitioner's proposal was not irrelevant, there was no reason for this Court to interfere in exercise of writ jurisdiction. It was thus urged that the writ petition be dismissed.

8. We have heard the learned counsel for the parties and we have perused the documents on record. At the outset we may note that the Sub-Committee in its meeting held on 23rd July 2024 has found it necessary to defer the acceptance of the petitioner's proposal in view of deficiencies noted therein. It has resolved further that subject to said deficiencies being cured, the proposal would be re-considered subsequently. In the said minutes, it has been noted that earlier financial assistance was rendered to the petitioner but it had not been able to operate to its full capacity and that for the crushing season 2023-24, the Sugar Factory was not functioning. Reference is made to the fact that there were dues of about Rs.45 crores. We find from the record that though the NCDC has issued a communication dated 23rd August 2016 stating therein that no amount was due and payable to it, it is seen that the aforesaid amount was paid by the State Government and those dues were yet to be cleared by the petitioner. In that regard, the proposal submitted by the petitioner for conversion of the aforesaid dues into share capital was pending with the

State Government. It therefore cannot be said that the decision to defer the petitioner's proposal was for unfounded or irrelevant reasons. Since the petitioner was seeking finance without directly approaching the NCDC but had routed its proposal through the State Government, it was justified in re-considering the matter and thereafter deferring the said proposal. Considering the possible financial implications, the decision to re-examine the proposal cannot be said to be arbitrary in nature for this Court to interfere.

9. It is to be borne in mind that the issue pertains to rendering financial assistance to the petitioner. The same is subject to satisfying the requirements prescribed in the Government Resolution dated 4th May 2023. If the State Government was of the view that the petitioner's proposal ought to be deferred till steps were taken by the petitioner to repay the earlier outstanding dues, such decision can hardly be stated to be arbitrary. For the same reason, issuance of the No Objection Certificate by the NCDC would not be of much consequence in view of the fact that the petitioner was seeking margin money loan that was being routed through the State Government. As an entity advancing finance, the respondents were entitled to safeguard their interests. While doing so, it decided to defer the petitioner's proposal. We do not find anything illegal in the decision taken by the Sub-Committee on 23rd July 2024. Moreover,

the decision is only to defer the petitioner's proposal and the same has not been rejected.

10. For all these reasons, we do not find that any case has been made out for this Court to interfere in exercise of writ jurisdiction. The writ petition therefore stands dismissed with no order as to costs.

11. Needless to observe that if the petitioner removes the deficiencies as indicated by the Sub-Committee in its meeting held on 23rd July 2024, the petitioner's proposal can be re-considered in accordance with the policy decision dated 4th May 2023.

[RAJESH S. PATIL, J.] **[A.S. CHANDURKAR, J.]**