(2010) 09 AHC CK 0585

In the Allahabad High Court

Case No : C.M.W.P. No. 58429 of 2010

Kailash Chandra Maurya APPELLANT

Vs

State of U.P. and Others RESPONDENT

Date of Decision : 28-09-2010

Acts Referred:

Banking Regulation Act, 1949 — Section 11(1)

Citation : (2011) 2 AWC 1104 : (2011) 1 UPLBEC 807

Hon'ble Judges : Sunil Ambwani, J;Kashi Nath Pandey, J

Bench : Division Bench

Judgement

Sunil Ambwani and Kashi Nath Pandey, JJ.—We have heard Sri Sunil Kumar Maurya, for the Petitioner. Sri D. P. Singh appears for the Zila Sahkari Bank Ltd.

2. The Petitioner had deposited some amount in fixed deposit Account Nos. 1604 and 2456 in the City Branch of Zila Sahkari Bank Ltd., Jaunpur. According to the Petitioner, the amount in the aforesaid account as in the year 2007 was Rs. 48,370 and in the year 2010 was Rs. 57,180 after which no transaction of deposit, or withdrawal was made by the Petitioner.

3. The Zila Sahkari Bank Ltd., Jaunpur has run into financial difficulties, and is unable to pay the matured amount to the fixed depositors. It had applied for rehabilitation package, to bail itself out of the financial crisis on account of no recoveries from the farmers, and has been considered for special advances to the weaker banks in the co-operative sector under the Vaidyanathan Committee appointed by the N.A.B.A.R.D.

4. Learned Counsel for the Petitioner has relied upon orders passed by this Court in Writ Petition Nos. 32701 of 2006, 48844 of 2010 and 40681 of 2010, directing the Bank to pay the amount to the Petitioners in those writ petitions. It is stated that these orders have been complied with.

5. In Writ Petition No. 30960 of 2010, Smt. Dharmwati Yadav and Anr. v. State of U.P. and Ors. this Court on 26.5.2010, after considering the response given by

the Bank, directed it not to make any further payment on its own discretion, unless it formulates a policy for withdrawal, based on the principles of equity and in public interest to be approved by the Board of the Bank.

6. In the counter-affidavit it is stated that the Bank in pursuance to the directions of this Court, has formulated a policy on 31.7.2010 under which in special circumstances of hardships, such as need for medical treatment, education of children, or marriage of daughter, the Bank has provided 10 % with the maximum of Rs. 20,000 with the approval of Secretary/General Manager, and above Rs. 20,000 but upto Rs. 50,000 to be paid to the depositors with the approval of the Board. The resolution further provides that after receipt of financial grant of Rs. 68.07 crores, under the plan prepared by Prof. Vaidyanathan, the entire amount, or balance amount, if any, shall be paid over to the depositors.

7. In the counter-affidavit of Rajesh Singh, employee of the District Co-operative Bank Ltd., Jaunpur, it is stated that Respondent bank is a central co-operative society, running banking business. It is required to disburse loan to the Primary Agriculture Credit Societies and other Primary Societies - the members of which are mostly farmers. The State Government has issued Government orders by which the bank authorities have been restrained from taking any coercive action against the defaulter members of the Primary Societies, badly affecting recovery, on account of which minimum amount, as required u/s 11(1) of the Banking Regulation Act, could not be maintained by the Bank. The Bank is suffering loss since 1990-91, and reached to its worst situation in the year 2005-06 when the recovery of the loan dues reduced to its 5 %, on account of indiscriminate Government interference. The total loss in the year 2007-08 reached upto maximum of Rs. 100.5 crores, on account of which liquidity of the bank became almost nil. The Central Government also issued debt waiver and debt relief scheme under which National Bank for Agricultural Rural Development (N.A.B.A.R.D.) issued a circular dated 2.6.2008 to the Managing Director of U.P. Co-operative Bank for assessing the total liability. Under the said scheme of N.A.B.A.R.D., total liability of the U.P. Co-operative Bank Ltd., has been assessed to be more than 20 crores, which could not be recovered from its members. The Respondent bank has also put up its claim before the N.A.B.A.R.D. for restructuring of the Co-operative movement in India including the co-operative banks. Consequently, circular letter dated 11.3.2008 has been issued by the Registrar, Co-operative Societies U.P., to all the General Managers of the Cooperative Banks in U.P. for completing special audit of the District Co-operative Banks by 31.3.2008 for special revival package.

8. A revival package for the Respondent Bank was recommended for Rs. 61,63,54,817 on 10.12.2008, by the Committee at District Level. The proposal however was not accepted by the State Level Committee, and the matter was remanded to the District Level Implementation Committee established under the Government notification dated 15.2.2007. The D.L.I.C. re-examined the matter

and has made recommendation on 10.5.2010 to the State Level Committee and the N.A.B.A.R.D., for favourable consideration for release of Rs. 59,98,65,090. The recommendation has been accepted by the State Level Implementation Committee, and has been sent to N.A.B.A.R.D. for release of the amount, out of which Rs. 10,37,07,716 has to be born by the Respondent Bank.

9. In para 21 of the counter-affidavit, it is stated that till date Rs. 582.55 lacs has been released to the bank under the Vaidyanathan Committee recommendation, and further an amount of Rs. 206.85 lacs under the debt relief scheme sponsored by the Central Government has been released in favour of the Bank. The total amount released upto 22.7.2010 in favour of the Bank by the Central Government and the State Government is Rs. 2644.40, out of which Rs. 11.26 lacs has been retained by the U.P. Co-operative Bank Ltd., Lucknow, Rs. 1158.51 has been deposited towards S.L.R. and Rs. 46.81 lacs has been kept under C.R.R. and thus actual amount received by the bank was Rs. 351.54 lacs.

10. In para 26 of the counter-affidavit it has been stated that out of Rs. 351.54 lacs, an amount of Rs. 250.76 lacs has been disbursed by the Bank, details of which has been given in para 25 of the counter-affidavit, and the balance amount of Rs. 100.78 lacs, cash in hand, is with the bank.

11. It is further stated in para 28 of the counter-affidavit that the remaining amount of Rs. 6,807 lacs has to be paid by the Government under Vaidyanathan Committee recommendation. It is stated that the Bank expects the'' amount to be released within three - four months.

12. On the aforesaid facts and circumstances, we find that the policy of the Bank formulated by the Board of Directors of the Bank on 31.3.2010 for the time being is a reasonable policy, to serve the interest of all depositors. The scheme is based on the principle of equity and is in public interest.

13. We, therefore, direct the Respondent Bank to consider Petitioner''s application for payment of the matured amount in his fixed deposit accounts, within a month, as per policy framed by the Bank. The bank will pay the remaining amount to the Petitioner, as soon as the grant under the plan prepared by Prof. Vaidyanathan Committee is received.

The writ petition is disposed of accordingly.

