(1997) 01 AHC CK 0051

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 3871 of 1987

Polythene Audyogic Utpadan Sahkari Samiti Ltd. APPELLANT

Vs

U.P. State Co-operative Bank Ltd. and Others RESPONDENT

Date of Decision : 09-01-1997

Acts Referred:
Constitution of India, 1950 — Article 226
State Financial Corporations Act, 1951 — Section 29

Citation : (1997) 89 CompCas 598

Hon'ble Judges : V.P. Goel, J;Ravi S. Dhavan, J

Bench : Division Bench

Advocate : Soorya Nath Upadhyay, for the Appellant; R.D. Misra, for the Respondent

Final Decision : Dismissed

Judgement

1. This matter has been pending in the court for ten years. Though learned counsel for the petitioner is dead, the matter cannot be adjourned so that it remains pending beyond the period of ten years as this in itself reflects badly on a public justice system.

2. As the matter is one in a writ jurisdiction and the petitioner seeks a writ of certiorari, though in effect a writ of mandamus only has been sought, upon examining the record, the court is rendering its opinion.

3. In effect the petitioner has filed the present writ petition challenging the action of respondent No. 3, the U. P. Financial Corporation, Kanpur, for proceeding u/s 29 of the State Financial Corporations Act, 1951. But the main issue which has been presented in the writ petition is that respondents Nos. 1 and 2, U. P. State Co-operative Bank Ltd., Luck-now, and the District Co-operative Bank Ltd., Bareilly, are not extending the cash credit limit of the petitioner by making available the petitioner''s loan so that in effect the recovery proceedings can be taken care of.

4. A rule of ad interim mandamus was issued by an order dated February 13, 1987, of the court to the District Co-operative Bank Ltd., Bareilly, respondent No. 2 to fix the cash credit limit relating to the petitioner within six weeks or show cause. This respondent has shown cause by filing a counter-affidavit by candidly submitting that it is not in a position to fix cash credit limit to the petitioner. It is submitted that the District Co-operative Bank has made advance to its member societies up to Rs. 2,10,63,000 until the year 1987. The medium term agricultural loans stand at Rs. 5,83,000. The industrial loans stand at Rs. 6,65,000 and in so far as the constituent District Co-operative Bank Ltd., Bareilly, is concerned, an overdraft at this bank stands at Rs. 26,26,000 under the public distribution scheme. It is submitted that in these circumstances the bank is not in a position to advance any industrial loan to the petitioner but the petitioner had been intimated that it had no objection if he were to obtain financial assistance from any other bank. The bank has further explained that a sum of Rs. 36,55,000 has been given to 92 members of the industrial cooperative societies and out of these, 91 members of the industrial co-operative societies are in default and that a total sum of Rs. 36,55,000 is overdue to the bank. The District Co-operative Bank, Bareilly, contends that the petitioner wants a sum of Rs. 10,00,000, which the bank cannot provide.

5. The court is of the opinion that this is a fiscal matter and when the bank is already in debt from loans which it has given to its members or its societies, which loans have not been paid, it will not be appropriate for the High Court to issue a rule of mandamus that the cash credit limit of the petitioner be increased. In effect, this will be a direction to provide the petitioner with a loan. This will amount to interfering with the business prudence of the bank. The court has no intention of doing so.

6. In the circumstances this writ petition is without merit and is accordingly dismissed. The interim order dated May 21, 1988, is discharged.

7. A copy of this order shall be sent by the registry to the bank forthwith.

The petition is dismissed. There will be no order on costs.

