(2014) 12 MAD CK 0299

In the Madras High Court

Case No : Writ Petition No. 30807 of 2014 and M.P. Nos. 1 and 2 of 2014

Thrift Co-operative Federation Limited — APPELLANT

Vs

The State of Tamil Nadu — RESPONDENT

Date of Decision : 12-12-2014

Acts Referred:
Multi-State Cooperative Societies Act, 2002 — Section 7

Citation : (2014) 12 MAD CK 0299

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Judgement

C.S. Karnan, J.—The short facts of the case are as follows:-

The petitioner submits that the "Thrift Co-operative Federation Limited", has been registered as Multi-State Co-operative Society as per Section 7 of Multi State Co-operative Societies Act on 19.08.1996. It has 100 member societies and the member societies are from Andhra Pradesh, Karnataka, Tamil Nadu and Urban Territory of Pondicherry. Out of 100 members societies, 67 members society are from Tamil Nadu and the remaining members are from other states and Union Territory of Pondicherry.

2. The petitioner society/federation was formed with view to enable the thrift and credit Co-operative Societies to be effective catalyst for social and economic betterment of their members through self help and mutual aid in accordance with Co-operative principles as specified in the first schedule of the Act". The Co-operative Societies are formed with the laudable object to inculcate a spirit to work in a group ready for rendering benefits to the members through Co-operative contributions. This is only possible by conferring wide range of discretion to a society, not restricting its discretion by interpreting the Law otherwise and this has to be for furthering the cause of Co-operative movement and that is the reason why rigorous of law including taxes and fees are deleted for enhancing the spirit of the Co-operative movement.

3. The petitioner humbly submits to the 2nd respondent by its circular in circular No. 12/93, dated 07.12.1993, has raised the individual loan limit from Rs.15,000/- to Rs.25,000/-. In the said circular it categorically states that societies obtaining loan from District Central Co-operative Bank or from other financial institutions are permitted to raise the loan limit, from the above it is very clear that employees credit Co-operative Societies are permitted to raise loan from financial institutions other than District Central Co-operative Bank.

4. The petitioner humbly submits that out of 67 members from Tamil Nadu, 40 members have availed loan from petitioner federation. The total number of individual beneficiaries from member societies is about 25,560. The petitioner federation/society gives loan to its member societies with lesser interest rate when compared to interest charged by District Central Co-operative Banks. The rate of interest charged by the petitioner federation/society is @ 11.5% only. Where as the Central Co-operative bank charge interest @12.25%.

5. The petitioner further submits that the petitioner federation/society has been doing the business since more than 18 years with support and Co-operation of the respondents without any allegation from any body. Moreover, till today more than several lakhs of individual members of member society are benefited by not only availing loan at a lesser rate of interest. But, also consistently getting 14% dividend on their share capital. As on 15.11.2014, the petitioner federation/ society has granted loan to the tune of Rs.92,69,28,523/- to its member societies.

6. The petitioner further submits that the petitioner federation/society offers death claim benefit to its member society''s individual member if a member society dies, the petitioner federation/society grants death relief amount of Rs.1,05,000/- to such an individual member''s family. Thus member society can recover the arrears of loan due amount from the deceased members and pay the balance amount to the family member of the society and sureties are relieved from the burden of loan. Till today nearly 1600 members compensated to the tune of Rs.5,50,00,000/- are benefited. Therefore, the question of deceased member''s loan account becoming NPA does not arise.

7. The petitioner federation/society further submits that in spite of lesser rate of interest the petitioner federation/society can make profit and pay dividends to its members societies in an aggregate @ 15% for past several years to the tune of about Rs.3,00,00,000/-. The petitioner further submits if the impugned circular is permitted to be operated the members of the petitioner federation/society will not avail loan from petitioner''s federation/society and inturn the member societies will be forced to avail loan from District Central Co-operatives Bank at a higher rate of interest, naturally the members societies have to lend money to its individual members at a higher rate of interest. Eventually, both petitioner federation/society and individual member''s of the member societies will be affected. The petitioner federation/society gives timely loan to its members societies.

8. The petitioner federation/society was pilfered to receive a copy of circular issued by the 2nd respondent in RC.No.94912/2014-B1-3 (Circular No. 25/2014) dated 16.10.2014 to all the societies registered under Tamil Nadu Co-operative societies Act, including petitioner''s member societies with an instruction to borrow funds not from the petitioner federation and to borrow only from concerned District Central Co-operative banks. The above said circular is to be quashed. Hence, this writ petition is filed.

9. The highly competent counsel, Mr.A.G. Rajan, appearing for the petitioner submits that the petitioner''s society has been registered in the year of 1996. The society consisting of about 100 members from the southern states. The society rendering benefits to the members through Co-operative contributions. The Society submitted a circular to the 2nd respondent for raising individual loan from Rs.15,000/- to Rs.25,000/-. About 40 members have availed loan from the petitioner''s federation. The society used loans through his members with lesser interest rate when compared to interest charged by District Central Co-operative Bank. The rate of interest charged by the petitioner''s society is at a rate of interest of 11.5% where as the Central Co-operative Bank are other financial institutions who charge interest at a rate of 12.25%. The learned counsel further submits that the petitioner''s society functioning for the past 18 years, without any blemish under the supervision of the respondents herein. The members of the society are availing loans at low interest and besides the members are receiving dividends on their share capital. As of now the society had granted loans to its members to more than 90 crores. Further, the society also offers death claim benefits to its members, to an extent of 1,05,000/- to the family victims. Now, about 1600 members have availed benefits to a tune of Rs.5,50,00,000/-.

10. The very competent counsel further submits that the society had given dividends to its members to about 3 Crores. Under the circumstances, the respondent had issued a circular and directing the society to avail loans or funds only from District Central Co-operative Banks. Further, the circular directing the Co-operative Society employers not to avail loan from the petitioner''s federation. The said circular issued by 2nd respondent which is prejudiced the petitioner and also against the principle of natural justice and violating fundamental rights and personnel rights of the petitioner''s federation and its members. Hence, the very competent counsel entreats the Court to allow the above writ petition.

11. The very competent Additional Government Pleader Mr.R.Bala Ramesh, appearing for the respondents submits that some of the employees of the Co-operative societies have borrowed loans from Thrift Co-operative federation Limited, like the petitioner''s federation, which is not a financing bank instead of receiving funds from District Central Co-operative Bank. This practice against the Tamil Nadu Co-operative Societies Act and Rules. Hence, the 2nd respondent circulated a circular to all the Deputy Registrars to carry out the circular and instructed to the Co-operative society employer to avail loan from the District

Central Co-operative Banks alone and not from the federation or other institutions. This circular issued in the interest of Co-operative society and its members, as such the 2nd respondent''s circular is an appropriate one and it has to be carried out across the State. Hence, the highly competent counsel requests this Court to dismiss the above writ petition.

12. From the above discussion this Court is of the view that:

(1) The members of the society can avail loan depending upon the discretion of the members which is his personnel prerogative. Therefore, the respondent''s circular is not an appropriate one to prevent the employees from availing loan from the petitioner''s federation which is also registered under the Societies Act.

(2) The highly competent counsel for the petitioner submits that the petitioners registered federation giving loans to its members at the rate of 11.5%, whereas the Central Co-operative Bank charging interest at the rate of 12.25%. The employee can avail the loan where ever, the interest is more attractive, as such the impugned circular is an additional burden to the employees in terms of additional interest. Therefore, this circular of the 2nd respondent is not fit for further operation.

13. Considering the facts and circumstances of the case and arguments advanced by the learned counsel on either side, the views as mentioned above in 1 and 2, the above writ petition is allowed. Consequently, the impugned order in R.C. No.94912/2014-B1-3 (Circular No. 25), dated 16.10.2014, is quashed. Accordingly ordered. No costs. Consequently, connected miscellaneous petitions are closed.