

(2007) 07 BOM CK 0096

In the Bombay High Court

Case No : Writ Petition No's. 5062, 5081 and 5847 of 2006 and 653 and 1250 of 2007

Vinod Shinde, Deepak Deshmukh, Sanjay Gaikwad and
Gajanan Sable

APPELLANT

Vs

The State of Maharashtra, The District Employment Exchange cum Guidance Center and The Yavatmal District Central Cooperative Bank Limited
 Prakash Dushetwar, Ravi Pritamkar and Prashant Mahajan Vs The State of Maharashtra and Yavatmal District Central Cooperative Bank Ltd.
 Sanjay Dnyaneshwar Duratkar Vs Yavatmal District Central Co-operative Bank
 Sou. Sangita Bhumbare nee Ku. Sangita Kadu and Sou. Netra Dube nee Ku. Netra Bhumbre Vs Yavatmal District Central Cooperative Bank Ltd. and District Deputy Registrar
 Sahakari Bank Karmachari Union Vs State of Maharashtra and Others

RESPONDENT

Date of Decision : 16-07-2007

Acts Referred:

Constitution of India, 1950 — Article 12

Maharashtra Project Affected Persons Rehabilitation Act, 1999 — Section 10, 10(6)

Citation : (2007) 5 ALLMR 540 : (2008) 1 BomCR 485

Hon'ble Judges : A.P. Lavande, J;A.B. Chaudhari, J

Bench : Division Bench

Advocate : K.S. Narwade, in Writ Petition No. 5081/2006, S.A. Gordey and R.S. Kurekar, in Writ Petition No. 653/2007, Anjan De and A.S. Dhore, in Writ Petition No. 1250/2007, R.S. Kurekar, in Writ Petition No. 5062/2006, A.S. Dhore, in Writ Petition No. 5305/2006 and A.C. Dharmadhikari, in Writ Petition No. 5847/2006, for the Appellant; B.H. Dangre, T.D. Khade and Ketki Joshi, A.G.Ps. for Respondent Nos. 1 to 3 in Writ Petition Nos. 5081/2006 and 653/2007, in Writ Petition No. 1250/2007, for Respondent Nos. 2 and 3 in Writ Petition No. 5062/2006, for Respondent No. 1, 2 and 4 in Writ Petition No. 5305/2006 and for Respondent Nos. 1 to 6 in Writ Petition No. 5847/2006, M.I. Dhattrak and A.S. Jaiswal, in Writ Petition Nos. 5081/2006 and 653/2007 and for Respondent No. 1 in Writ Petition No. 5062/2006 and M.I. Dhattrak, in Writ Petition No. 1250/2007, in Writ Petition No. 5305/2006 and for Respondent No. 7 in Writ Petition No. 5847/2006, for the Respondent

Judgement

A.B. Chaudhari, J.—Rule in Writ Petition Nos. 5081/2006, 653/2007, 1250/2007, 5062/2006, 5305/2006 and 5847/2006 returnable forthwith. Heard finally by consent of parties.

2. Writ Petition No. 5081/2006 was filed in this Court on 9.10.2006. On 11.10.2006 this Court issued notice before admission returnable after four weeks and made an interim order preventing respondent No. 4 - Yavatmal District Central Co-operative Bank Limited, Yavatmal from issuing appointment orders without obtaining orders of this Court. The said writ petition was ordered to be tagged with Writ Petition No. 5062/2006. Thereafter on 21.4.2007 Civil Application No. 2907/2007 was filed by Counsel for respondent No. 4 - Bank seeking permission to issue appointment orders. On the same day Civil Application No. 2909/2007 was also filed by the proposed appointees for joining them as intervenors in the writ petition. On 23.4.2007 this Court adjourned Writ Petitions for final disposal at the admission stage after summer vacation on account of paucity of time and directed that the group of writ petitions involving the same issue be fixed in the second week of June 2007. Since the petitions were fixed for final disposal, this Court decided not to hear the aforesaid applications. On 7.5.2007 the Hon'ble Supreme Court in Civil Appeal No. 2396/2007 preferred at the instance of respondent No. 4-Bank made an order to hear Writ Petition No. 5081/2006 on 11.6.2007 on merits and in case disposal of writ petition on merits was not possible, to take up Civil Application No. 2907/2007 and pass appropriate orders. Accordingly, Writ Petition No. 5081/2006 and connected Writ Petitions were fixed on 11.6.2007 before the Court. But one of the Judges in the Division Bench expressed his inability to take up the matters for hearing and hence the said Division Bench ordered that the Writ Petitions be placed before the appropriate Division Bench. Accordingly, this Bench was constituted and it was noticed that in Writ Petition No. 1250/2007 involving the identical challenge, this Court made an interim order against respondent No. 4 Bank from making any appointment. Therefore, Writ Petition No. 5081/2006 along with all connected Writ Petitions involving the same issue were ordered to be placed before this Court on 14.6.2007. Before commencement of hearing of the Writ Petitions, learned Counsel for the parties appearing in all these Writ Petitions were asked whether Writ Petitions could be finally heard and decided and with their consent all the Writ Petitions were taken up for final disposal and accordingly have been finally heard.

FACTS:

3. By these writ petitions, the petitioners have raised challenge which is common in all the writ petitions. The challenge is to the process of recruitment undertaken by respondent No. 4 - Yavatmal District Central Co-operative Bank Limited, Yavatmal. Respondent No. 4 - Yavatmal District Central Co-operative Bank Limited, Yavatmal is a specified society within the meaning of Section 73G(1)(ii)

of the Maharashtra Co-operative Societies Act, 1960. It is a banking Society and is under the control of the Reserve Bank of India as well as National Bank For Agricultural And Rural Development (NABARD), in so far as the regulation of banking operations are concerned in accordance with the Banking Regulation Act, 1949. Somewhere in the year 1971, the State Government had constituted a Committee for studying the need of the District Central Co-operative Banks in the State in the matter of sanction of posts and recruitment of staff in consonance with the financial position of a particular District Central Co-operative Bank in the State of Maharashtra. The Committee had finally prepared a pattern in the matter of sanction of posts and recruitment for District Central Co-operative Banks in the State of Maharashtra, which is known as Ramkrishna Pattern. The same was accepted by the Government of Maharashtra. Thereafter, all the District Central Cooperative Banks were directed to submit their respective proposals for sanction of posts in a particular District Central Co-operative Bank in various cadres and the proposals were to be examined and finalized by the Commissioner for Co-operation and the Registrar, Co-operative Societies, Maharashtra State, Pune.

4. Even after sanction of the particular number of posts, the District Central Co-operative Bank was required to project the need for filling up particular number of posts in various cadres to the Commissioner for Cooperation who was expected to decide the number of posts which could be filled in by the particular District Central Co-operative Bank subject to conditions to be incorporated in the order of grant of permission to make recruitment. In the present case also it appears that on 4.8.2006, the respondent No. 4. Bank had projected the need to make appointments in the cadres of clerks and peons with the Commissioner for Cooperation. In response to the said proposal it appears that on 1.9.2006 the Commissioner for Cooperation after examination of the proposal permitted the respondent No. 4. Bank to make recruitment of 136 staff members in the Bank i.e. 116 clerks and 20 peons on certain conditions. Some of the conditions in the said order are extracted below for convenience.

(1) Order issued by the Government as well as the office of Commissioner for Cooperation from time to time in the matter of recruitment shall be strictly followed.

(2) Roster for backward classes shall be duly maintained and while making appointments prescribed procedure shall be followed.

(3) In accordance with the Government resolution dated 18.6.1994 and letter issued by National Organization for the Blinds Maharashtra Unit, Nasik backlog of blind and disabled candidates be removed.

(4) While making appointments, it would be imperative to get verified/certified roster points from Commissioner, Backward Class Section, Social Welfare, Pune for clearing the backlog of the backward classes.

5. It appears that the respondent No. 4. Bank then sent a requisition to the

District Employment Exchange Officer, District Employment Exchange, Yavatmal vide letter dated 16.9.2006 for sending the names of the candidates from the employment exchange for 136 posts in various categories, namely, S.C., S.T., VJ-NT, O.B.C., S.B.C. and Open in the ratio of 20 candidates for one post of clerk and 15 candidates for one post of peon. It then appears that thereafter the process of selection was to commence from 15.10.2006 and by that time the people came to know about the same and complaints and representations were made to various authorities. The nature of complaints in nutshell was that process of recruitment that was undertaken by the Bank was not transparent. The public at large was not made aware about the proposed recruitment and clandestinely some names were called from the employment exchange with a view to make appointments in undue haste. The Divisional Joint Registrar, Amravati in response to the complaints and representations issued a letter to respondent No. 4 - Bank on 6.10.2006 and stated therein that the respondent No. 4 - Bank was required to undertake the recruitment process in accordance with the Government circulars dated 19.11.2003 and dated 22.11.1993 and the respondent No. 4 Bank was obliged to take care not to violate those directions. On 13.10.2006 he issued a reminder to the same effect. In the meanwhile, these writ petitions were filed in this Court and interim orders as aforesaid were made by this Court in some writ petitions.

ARGUMENTS:

6. In all these writ petitions S/Shri K.S. Narwade, R.S. Kurekar, A.C. Dharmadhikari, A.S. Dhore and S.A. Gordey appeared for the petitioners and made following submissions;

(1) The Yavatmal District Central Co-operative Bank Limited, Yavatmal is an authority. within the meaning of Article 12 of the Constitution and, therefore, it is a State and hence, the present writ petitions are maintainable. Reliance has been placed on the decisions of the Hon''ble Supreme Court of India reported in U.P. State Cooperative Land Development Bank Ltd. Vs. Chandra Bhan Dubey and Others, AIR 2004 SCW 2656, Gayatri De v. Mousumi Co-operative Housing Society Ltd. and Ors. AIR 1990 A P 171 , Sri Konaseema Co-operative Central Bank Ltd v. Amalapuram and Anr. and also on the decision of this Court reported in Dalsing Rajput Vs. State of Maharashtra and Others, .

(2) There is a violation of mandatory directions which have a statutory force issued by the Government of Maharashtra in the form of Government circular dated 19.11.2003 which was issued in the light of judgment of the Hon''ble Supreme Court of India in the case of Excise Superintendent Malkapatnam, Krishna District, A.P. Vs. K.B.N. Visweshwara Rao and Others, followed in the case of Arun Kumar Nayak Vs. Union of India (UOI) and Others, , which laid down the need for transparency and equality of opportunity in the matter of employment to all eligible candidates in the interest of fair play. The said Government circular specifically applies to all Co-operative Societies including the respondent No. 4. Bank and in so far as the Co-operative Societies are concerned

the repository power to issue the same is in Section 79A of the Maharashtra Co-operative Societies Act, 1960. The said circular still holds the field. The circular has a statutory force and, therefore, the writ petition would be maintainable for violation of the said statutory circular. Reliance is placed on the decision of the Supreme Court in the case of Supriya Basu and Others Vs. West Bengal Hsg. Board and Others, and in the case of Union of India (UOI) Vs. K.P. Joseph and Others, .

(3) The conditions in the order made by the Commissioner for Cooperation granting permission to make recruitment on 1.9.2006 have been observed more in breach. No reservation has been provided for blind and disabled persons, project affected persons as required by Section 10 of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (Mah. Act No. XI/2001). No list of part time employees from the Collector was called as per condition No. 4. Respondent No. 4. Bank has not maintained any roster nor got the same certified from the Commissioner, Backward Classes Section Social Welfare, Pune before deciding the number of posts to be reserved for various categories for backward classes.

(4) Admittedly, no public advertisements in the leading newspapers were issued nor announcement about the proposed recruitment was made through radio, television and employment news, bulletins as per directions contained in the circular dated 19.11.2003.

7. Smt. Dangre, Smt. Khade and Smt. Ketki Joshi appearing for respondent No. 1. State of Maharashtra and respondent Nos. 2 and 3 made the following submissions.

(1) The circular dated 19.11.2003 issued by the Government of Maharashtra is still in force and was issued considering the need for transparency in the recruitment as suggested by the Hon"ble Supreme Court of India even in the case of District Central Co-operative Bank in the two decisions cited supra. The Government expects that the same will have to followed by the respondent No. 4. Bank in letter and spirit. The circular has been issued by the Government of Maharashtra and simply because it is not issued by the department of cooperation but issued by general administration department it makes no difference because it has been issued by the Government of Maharashtra.

(2) Circular dated 19.11.2003 has a statutory force since the same can be read as the one u/s 79A of the Maharashtra Co-operative Societies Act, 1960 and even otherwise in its executive power the Government can issue the said circular which has the binding effect on respondent No. 4. Bank. That is the reasons why the letter was issued on 6.10.2006 to the Bank to follow the said circular.

(3) The order granting permission issued by the respondent No. 3 is conditional and one of the conditions is that the Bank will have to follow all the Government orders and circulars including the one dated 19.11.2003.

(4) The reservations under various heads including reservations for blind and

disabled, project affected persons and backward classes unless certified by the competent authorities the percentage of reservation cannot be finalized.

8. Per contra, S/Shri Jaiswal, Dhatrak, learned Counsel for respondent. Bank made following submissions;

(1) Respondent No. 4 Yavatmal District Central Co-operative Bank Limited, Yavatmal is neither a State nor Authority nor instrumentality of State and, therefore, the writ petitions are liable to be dismissed without going into the merits thereof. Reliance was placed upon the decisions of the Supreme Court in the case of Federal Bank Ltd. Vs. Sagar Thomas and Others, , the Full Bench decision of this Court in the case of The Shamrao Vithal Co-operative Bank Limited and another Vs. Padubidri Pattabhiram Baht and another, , and decisions of this Court in the case of Dayandeo Dattatraya Kale and Others Vs. State Of Maharashtra and Others, and Shri Madhusudan Waman Desai Vs. The Ratnagiri District Central Co-operative Bank Ltd. and The General Manager, The Ratnagiri District Central Co-operative Bank Ltd., .

(2) Respondent No. 4 - Bank being a co-operative society the circular dated 19.11.2003 issued by general administration department of Government of Maharashtra cannot be said to have been issued u/s 79A of the Maharashtra Co-operative Societies Act, 1960 and, therefore, the same is not binding on the respondent No. 4. Bank. It has not been issued by cooperation department of the Government. The circular dated 30.10.1992 provides for a method of recruitment in the District Central Co-operative Banks and the same has been issued by the Commissioner for Cooperation u/s 79A of the Maharashtra Co-operative Societies Act, 1960. The said circular dated 30.10.1992 prohibits the District Central Co-operative Bank from issuing advertisements in newspapers and it mandates that recruitment shall be made only from the names of the candidates received from Employment Exchange, Social Welfare Officer and Tribal Development Officer. In view of this prohibition imposed by the Commissioner for Cooperation from issuing public advertisements or making known to the public at large through radio, television etc., such exercise is not at all contemplated.

(3) Reservations to backward classes have been provided as is clear from the requisition to employment exchange for calling the names of the candidates.

(4) Two judgments of the Hon"ble Supreme Court regarding public advertisements etc. apply only to the employment under the State and the public undertakings and not to the co-operative banks.

(5) Employment under a District Central Co-operative Bank is not a public employment. Respondent No. 4. Bank is not bound by the circulars which are not specifically issued u/s 79A of the Maharashtra Co-operatives Societies Act, 1960.

9. Shri Shiva Khobragade, learned Counsel argued his C.A. No. 2909/2007. He submitted that the applicants in their application are the persons who have been selected by the Bank and their intervention is essential as the rights of the

applicants would be affected. On merits, we do not find any reason not to allow the applicants to intervene in the present petitions. Therefore, we allowed him to argue on merits and he accordingly adopted the arguments advanced by the other Counsel for the petitioners in other petitions.

CONSIDERATION

10. Having heard learned Counsel for the parties at length, we record our findings as under:

11. As a result of full fledged public movement in the State of Maharashtra for cooperation, large number of public bodies, associations and public at large came together and formed various types of societies realizing that the progress can be made by the movement for cooperation. Initially, the movement for cooperation was profusely spread over in the agriculture sector. The Bombay Co-operatives Societies Act was replaced by the Maharashtra Co-operatives Societies Act, 1960 particularly after reorganization of the State and in accordance with the needs for implementing the movement, State Legislature came out with the said Act. Now, in order to finance the agriculturists as well as societies, a provision u/s 73G of the Maharashtra Co-operative Societies Act was made for statutory recognition of the District Central Co-operative Banks in the State of Maharashtra and such these class of societies were classified as "specified societies". Thus, the District Central Co-operative Banks are the banking societies and the main object was disbursement of the loan to the farmers. The Banking Regulation Act, 1949 was also amended and such co-operative banking societies were brought under the control of the said Act by inserting Part - V in the said Act. After establishment of NABARD, the functions of the Reserve Bank of India qua these Co-operative Bank and Co-operative Societies are being performed by NABARD. Under the Maharashtra Co-operative Societies Act, there are several provisions which clearly provide for control on the business, management, elections to the Board of Directors of these banks so also the functions. The State Government has a power to issue directions, dissolve and amalgamate the Co-operative Societies or Bank, supersede the Board of Directors and wind up the Society and to make enquiries, audits and also take action against the Directors or the Board of Directors or the Bank for violation of the provisions of the Act, Rules, Bye-laws, Circulars, Resolutions etc. No District Central Co-operative Bank in the State of Maharashtra has the power to create or sanction any posts in any cadre on its own. On the contrary, the District Central Co-operative Banks are required to approach the Commissioner for Cooperation for creation and sanction of the posts in the cadres and the same is governed by the Ramkrishna Pattern. Even after the sanction of the posts by the Commissioner for Cooperation, the District Central Co-operative Bank is required to project a proposal to the Commissioner for Cooperation for filling up particular number of posts out of the sanctioned posts and after examining the proposals the Commissioner for Cooperation can grant permission on certain terms and conditions and it is only thereafter the process of recruitment can be undertaken. The reservations on all counts are

also required to be followed by the District Central Co-operative Banks under Maharashtra Co-operative Societies (Election to Committees) Rules 1971, it is the Collector of the District who is authorised to hold the election to the managing committee of such Bank and the Bank itself cannot hold such election. It is true as contended by Shri Jaiswal, learned Counsel that a circular was issued by the Commissioner for Cooperation on 30.10.1992, stating therein that the District Central Co-operative Banks should call the names of the candidates from the Employment Exchange, Social Welfare Officer and the Tribal Development Officer and appoint the candidates from those lists and that no public advertisement should be issued unless the candidates from these sources are not available. Having gone through the said circular dated 30.10.1992, we find that the said circular has been issued by the Commissioner for Cooperation and Registrar, Co-operative Societies, Maharashtra State, Pune. It is not possible to accept the contention raised by Shri Jaiswal, learned Counsel that this circular was issued u/s 79A of the Maharashtra Cooperative Societies Act, 1960 for more than one reason. In the first place, circular nowhere recites in the preamble that it was issued in exercise of the powers u/s 79A of the Act. Secondly, Section 79A of the Maharashtra Co-operative Societies Act reads thus;

79A. Government's power to give directions in the public interest, etc.

(1) If the State Government, on receipt of a report from the Registrar or otherwise, is satisfied that in the public interest or for the purposes of securing proper implementation of co-operative production and other development programmes approved or undertaken by Government, or to secure the proper management of the business of the society generally, or for preventing the affairs of the society being conducted in a manner detrimental to the interests of the members or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular. [the State Government may issue] directions to them from time to time, and all societies or the societies concerned, as the case may be, shall be bound to comply with such directions.

(2) The State Government may modify or cancel any directions issued under Sub-section (1), and in modifying or cancelling such directions may impose such conditions as it may deem fit.

(3) Where the Registrar is satisfied that any person was responsible for complying with any directions or modified directions issued to a society under Sub-sections (1) and (2) and he has failed without any good reason or justification, to comply with the directions, the Registrar may by order

(a) if the person is a member of the committee of the society, remove the member from the committee and appoint any other person as member of the committee for the remainder of the term of his office and declare him to be disqualified to be such member for a period of six years from the date of the order.

(b) if the person is an employee of the society, direct the committee to remove such person from employment of the society forthwith, and if any member or members of the committee, without any good reason or justification, fail to comply with this order, remove the members, appoint other persons as members and declare them disqualified as provided in Clause (a) above. Provided that, before making any order under this sub-section, the Registrar shall give a reasonable opportunity of being heard to the person or persons concerned and consult the federal society is affiliated. Any order made by the Registrar under this section shall be final.

12. Perusal of the above provisions show that before amendment by Maharashtra Act No. XXXVI of 1975, Registrar was empowered to issue circular/direction u/s 79A of the Maharashtra Co-operative Societies Act, 1960, but after the said amendment the State Government alone was empowered to exercise powers u/s 79A of the Act. After taking away the power that was vested in the Registrar, this circular dated 30.10.1992 was issued and, hence, it cannot be said that the said circular has any statutory force. Shri Jaiswal, learned Counsel then argued that there is reference in the Government circular dated 29.10.1979 in paragraph 2 of the circular dated 30.10.1992, which directs that the appointment should be made from the candidates whose names are received from the employment exchange and not by issuing public advertisements. In our opinion, the said circular dated 29.10.1979 is obviously superseded by the last circular dated 19.11.2003 which today holds the field. We have, therefore, no hesitation in rejecting the contention advanced on behalf of the respondent No. 4. Bank that they are governed by the circular dated 30.10.1992, issued by the Commissioner for Cooperation.

13. Now coming to the circular dated 19.11.2003, we find that the said circular is actually based on the judgment of the Hon"ble Supreme Court in the case of Visweshwara Rao, cited supra, which was followed in the case of Arun Kumar Nayak v. Union of India and Ors. cited supra. While following the law laid down in the case of Visweshwara Rao (supra) the Hon"ble Supreme Court in the case of Arun Kumar Nayak observed that the Three Bench Judgment of the Supreme Court in the case of Visweshwara Rao is still holding the field. The submission of Shri Jaiswal, learned Counsel that the said Supreme Court judgments relate to the appointment to the posts under a State and, therefore, cannot be made applicable to Co-operative Banks does not appeal to us for more than one reason. In the first place for achieving transparency, fair play, equality of opportunity in the matter of employment to all eligible candidates and looking to the fact that large number of highly qualified educated unemployed persons are still unable to get employment and to get the best from amongst them, the District Central Co-operative Bank also ought to follow and implement the law laid down by the Hon"ble Supreme Court in the above cases. Secondly, the Government of Maharashtra having realized the need to implement the judgments of the Supreme Court not only for the appointment to the posts under the State but also appointments to the posts in Semi-Government, public

corporations, co-operative societies, autonomous institutions and public enterprises issued circular dated 19.11.2003 adopting guidelines laid down in the aforesaid judgment of the Supreme Court in the case of Visweshwara Rao, cited supra, to be followed and to be implemented by the co-operative societies also in the matter of recruitment. In our opinion, this circular has been issued under the executive authority of the Government of Maharashtra and simply because the same is issued by the general administration department of Maharashtra State, it cannot be said that repository of power u/s 79A of the Act cannot be read into the said circular. The circular has a statutory force and the petitioners have right to get implementation of the said circular qua the respondent No. 4. Bank through the State of Maharashtra and its subordinate officers. The petitioners have established their legal right on the basis of the said circular dated 19.11.2003 and in our opinion, therefore, they are entitled to maintain the present writ petitions to work out their rights under the said circular dated 19.11.2003. In our opinion, violation of mandatory provisions of the said circular dated 19.11.2003 is clearly established and, therefore, the writ petitions are maintainable.

14. Now considering the stand taken by the State of Maharashtra and its subordinate officers, it is clear that they have taken a specific stand that the circular dated 19.11.2003 has a statutory force and is required to be implemented by the respondent No. 4. Bank in its letter and spirit. That is clear from the various affidavits filed on record as well as submissions made before us on their behalf. It further appears that the reservations under various heads and certification thereof by the competent authority have not been made before calling the names from the employment exchange. Unless reservations are decided well in advance and duly certified by the competent authority under various heads and the number of posts reserved are indicated in the advertisement or in the requisition to the employment exchange, it would be wholly improper to proceed to make recruitment in the absence of such certification. Section 10(6)(a) of the Maharashtra Project Affected Persons Rehabilitation Act, 1999 (Maharashtra Act No. XI of 2001) reads as u/s 10(6)(a) In all Class III and Class IV category of services under the establishment of the State Government Departments, public sector undertakings, local self government, government-aided institutions and co-operative societies specified u/s 73A of the Maharashtra Co-operative Societies Act, 1960 there shall be not less than five per cent priority quota for the employment of nominees of the affected persons. It is clear from the above provisions that the legislature has intended that the co-operative societies shall have priority quota not less than five per cent for the employment of the nominees of the project affected persons. Now admittedly respondent No. 4. Bank has not provided any priority quota in this category, so also reservation for disabled persons under The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The list of project affected persons is required to be collected from the Collectorate of the District and the priority quota/reservation is required to be

got certified from the Collectorate before issuing advertisement. Admittedly, this has not been done in the instant case.

15. We, therefore, hold that the circular dated 19.11.2003 has a statutory force and same is binding on the respondent No. 4. Bank. The object in issuing the circular is salutary and to implement the law laid down by the Hon''ble Apex Court even in respect of the co-operative societies in the progressive State like State of Maharashtra.

16. Since the petitioners are bound to succeed in the light of the above premises indicated by us, we do not feel it necessary to decide the preliminary objection raised by the respondent No. 4. Bank that the respondent No. 4. Bank is neither a State nor authority nor instrumentality of State within the meaning of Article 12 of the Constitution and, therefore, the writ petitions would not be maintainable against respondent 4-Bank.

17. For the reasons stated above, all these writ petitions are allowed. The entire selection process undertaken by respondent No. 4 Yavatmal District Central Co-operative Bank Limited, Yavatmal for the purpose of filling up 136 posts in accordance with the permission granted by Commissioner for Cooperation under order dated 1.9.2006 is quashed and set aside.

18. The respondent No. 4. Bank shall strictly follow the circular dated 19.11.2003 as well as conditions incorporated in the permission letter dated 1.9.2006 and also provide for reservations/priorities for various categories as provided by the Central as well as State Acts applicable to the respondent No. 4-Bank, as per the directions of the Government of Maharashtra.

19. Rule is, therefore, made absolute in the above terms in all the writ petitions. Respondent No. 4. Bank shall pay costs of Rs. 5,000/- in each writ petition to the petitioners.