

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.4486 OF 2013**

Bank of Baroda ... Petitioner

V/s.

The State of Maharashtra and others ... Respondents

Mr. Anshula Grover i/by Vidhi Partners, for the Petitioner.  
Mr. V.S. Gokhale, AGP, for the Respondent Nos.1 and 2.  
Dr. Santosh Jalukar, for Respondent No.3 in person.

**CORAM : A.S. OKA &  
M.S. SONAK, JJ.**

**DATE : 15<sup>th</sup> JANUARY, 2014**

**PC.**

. Heard the learned counsel appearing for the Petitioner and the third Respondent appearing in person. The learned counsel appearing for the Petitioner, on instructions, states that the vacancy of Chairperson and the learned Member (Judicial) of the Cyber Appellate Tribunal has not been filled in and, therefore, a remedy of Appeal cannot be availed of by the Petitioner.

2. The challenge in this Petition is to the order dated 20<sup>th</sup> February, 2013 passed by the Secretary (Information Technology), Government of Maharashtra by which the Petitioner Bank has been

ordered to pay damages to the tune of Rs.1,20,000/- (Rupees One Lac Twenty Thousand) to the third Respondent on account of loss caused to the third Respondent. The learned counsel appearing for the Petitioner states that a sum of Rs.1,20,000/- has already been deposited in this Court.

3. As the Petitioner cannot avail of the statutory remedy, the challenge to the impugned order will have to be decided on merits. Hence, we issue Rule. The third Respondent waives service. The learned AGP waives service for first and second Respondents. The entire amount has been deposited. Hence, there will be interim relief in terms of prayer clause (c). However, we permit the third Respondent to withdraw the sum of Rs.1,20,000/- deposited in this Court subject to furnishing adequate security for the said amount to the satisfaction of the Registrar (Judicial-I) of this Court. The Petitioner shall be heard before accepting the security. As and when the Appellate Tribunal is validly constituted, we grant liberty to the parties to move this Court.

**(M.S. SONAK, J )**

**(A.S.OKA, J )**