

Dond

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION NO.1546 OF 2014**

Dr. Mandar D. Mule & Ors.

..Petitioners

Vs

The President/CEO, The Konkan Prant  
Sahakari Bank Ltd. & Ors.

..Respondents.

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Miss. Rachana R. Chavan a/w Miss Kirti Purohit for Petitioners.  
Mr. Venkatesh Dhond, Senior Counsel a/w Mr. Parag Sharma, Ms. Mansi  
Patel i/b Udawadia & Udeshi for Respondent Nos.2 & 8.  
Mr. Shriram Kulkarni, Amicus Curiae.  
Mr. A.I. Patel, AGP for Respondent-State.  
Mr. Ajit Hon i/b Pramod N. Patil for Respondent No.4.  
Mr. D.P. Singh for Respondent No.7.

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**CORAM: V.M. KANADE AND  
A.S. GADKARI, JJ.**

**DATE: 17 MARCH 2017.**

**P.C.:**

1] We have heard Mr. Dhond, learned Senior Counsel appearing for the Reserve Bank of India, the learned Counsel for the Deposit Insurance And Credit Guarantee Corporation, (DICGC), the learned Counsel for the Official Liquidator and the learned AGP for the State.

2] In pursuance of the directions given by the Reserve Bank of India, under Section 35-A of the Banking Regulation Act, 1949, the accounts of the depositors have been frozen. The Liquidator has filed a list of the correspondence indicating steps taken by him in distribution of the said amount which is due to the borrowers.

3] The Liquidator to file a report on the next date pointing out the steps taken by him in distribution of the amount released by the DICGC and annexe a list of depositors who were paid an amount of Rs.1 lakh or less and also point out the names of the depositors to whom those amounts are not distributed. We direct the State Government to produce before us a list of all Co-Operative Banks which have gone in liquidation.

4] We find a legal issue in this case and we have asked Shri Dhond, the learned Senior Counsel to assist us on this issue.

We have noticed in several cases, particularly in respect of the Co-Operative Banks that in pursuance of directions given by the Reserve Bank of India under Section 35-A of the Banking Regulation Act froze all accounts and licences of the Co-Operative Banks from carrying on business. The depositors are not permitted to withdraw the amount which

they had deposited in the said banks. We thought it fit to examine the legal provisions under the Banking Regulation Act and The Deposit Insurance And Credit Guarantee Corporation Act (DICGC Act) .

The Section 35-A of the Banking Regulation Act authorises the Reserve Bank of India to issue various directions in public interest. The nature of the directions that can be given by the Reserve Bank of India are not mentioned in Section 35-A. However, the reasons for which those directions can be given have been mentioned in the said provision. From the aforesaid provision, it is clear that the Reserve Bank of India, in public interest and interest of the depositors, can issue directions to ensure that the amount deposited by the depositors is not depleted on account of increase or loss suffered by the Banks.

5] The DICGC Act contemplates that the Corporation can be formed for the purpose of giving the protection to the depositors while charging premium on the total assets of the bank under Section 15(1) of the said Act. A premium not exceeding 15 paise per annum for every hundred rupees of total amount of deposit in the bank can be charged by the Corporation. At the moment, the Corporation is charging 10 paise per annum on every hundred rupees, however, the Corporation may increase

this premium from 10 paise to 15 paise per annum so that the amount can be disbursed to each depositors according to deposits made with the banks can be increased above 1 lakh.

6] Section 16 of the DICGC Act and particularly the proviso to the said Section provides that, the total amount which is payable by the Corporation to any one depositor shall not exceed one lakh. Initially this amount was Rs.1500/-, but it was raised to Rs.5000/- w.e.f. January 1, 1968, Rs.10,000/- w.e.f. April 1, 1970 and finally it was raised to Rs.1 lakh w.e.f. May 1, 1993. More than 25 years have been passed after the said amount was increased and we are of the view that the Corporation should consider to increase the said amount at least upto Rs.5 lakhs. We direct the Corporation to consider this request.

7] Section 16(1) of the said Act in terms states that the Corporation is liable to pay every depositor from that bank an amount equal to amount due to him in respect of his deposit in that bank. The Corporation is therefore in order to achieve the object mentioned in Section 16(1) of the Banking Regulation Act, can consider the increase the said amount from 1 lakh to Rs.5 lakh or such amount as it deems fit and proper.

**8]** The petitioner also to submit a list of those depositors who have received certain amount from DICGC and if possible to give a list of those persons who have not received for whatsoever reason.

**9]** Stand over to 29<sup>th</sup> March 2017. To be placed on the supplementary board.

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

**(V.M.KANADE, J.)**