

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL WRIT PETITION NO.1223 OF 2019
WITH
APPLN/2846/2019 IN WP/1223/2019**

**DADASAHEB KUSHABAPU PAWAR AND ANR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. A.R.Kale, Advocate h/f. Mr.S.B.Talekar, Advocate
for petitioners

Mr. A.B.Girase, Public Prosecutor for respondent nos.1
to 3

**CORAM : T.V. NALAWADE AND
R.G. AVACHAT, JJ.
DATE : OCTOBER 10, 2019**

PER COURT :-

Heard both sides for some time.

2. Today, again the report submitted by Shri.Prakash Patil, A.P.I., Loni Police Station, Tq.Rahata, Dist. Ahmednagar, to the learned Public Prosecutor, is shown to this Court. Yesterday, this Court had made some observations after perusal of this

report, to the effect that this Court is not satisfied with the manner, in which the things are going on.

3. At the cost of repetition, this Court is again mentioning the relevant facts of the present matter. The allegations are against the management of the Sugar Factory and it can be said that the allegations can be against the Officers of two nationalised banks also. There was a scheme floated by the Government for waiver of loan taken by the farmers. The sugar factory had already taken loans from two nationalised banks. Even when the scheme was floated for farmers and the loan availed by factory was passed to farmers as 'basal dose loans', as per the record, steps were taken by the sugar factory to see that it gets benefit of the Government scheme. On the basis of the proposal made for getting benefit of the Government Scheme, the benefit was actually given. The record shows that information was supplied by the sugar factory that it had more than

12000 members and for the benefit of those members, loans were taken.

4. As per the conditions of the scheme, it was necessary that there was actual disbursement of such loans as 'basal dose' and after satisfaction of that condition, the scheme could have been applied. The data collected from banks was forwarded to the authorities and on that basis, amounts were transmitted in the two loan accounts of the sugar factory, which were in two nationalised banks. Thus, the sugar factory in fact was benefited due to the scheme. Subsequently, it transpired to authority that the loan was not disbursed to the farmers and there was no question of giving benefit of loan waiver scheme. After that, steps were taken by the Co-operative Department of the State Government and the banks were directed to return the amounts with interest at the rate of 6% per annum. The banks returned the amounts, but after five years from the date of receipt of the amounts into the loan accounts

of the sugar factory. As per the record, interest was never paid and no further steps were taken by the Commissioner for Co-operation in that regard. In the past, the Commissioner for Co-operation had expressed that he would take criminal action, but no such criminal action was taken by the Commissioner for Co-operation.

5. In view of the afore-stated background, this Court had expressed that the present investigating agency was wasting its time and protracting the things by collecting information, which was already available and on the basis of which, inference is also available.

6. In view of these circumstances, this Court had asked learned Public Prosecutor to take instructions and express about the intentions of the investigating Agency. Upon that, learned Public Prosecutor, on instructions, makes a statement that in future, the investigation would be made by the

Officer of the rank of Deputy Superintendent of Police. He also states, on instructions, that within fifteen days from today, progress will be actually shown in the investigation and the report of progress will be submitted to the Court. He further submits that the matter may be treated as part-heard and may be kept with this Court, to see that there is compliance of the order made by this Court and the observations made by this Court are considered by the investigating agency.

7. As regards the last submission of the learned Public Prosecutor, it can be said that it is not within the powers of this Court to keep the matter with this Court as part-heard, as the matter may go to other Court automatically, if the assignment is changed. But, the aforesaid statements made by the learned Public Prosecutor are recorded by this Court. This Court hopes that without getting influenced by anybody, the new Investigating Officer will make investigation fairly. In such cases,

courage needs to be shown by the Investigating Officer, otherwise progress in such matter is not possible.

8. As some submission was made in respect of petitioner no.2 that he did not turn up to give statement, this Court hereby directs petitioner no.2 to approach the concerned police station tomorrow i.e. on 11.10.2019 between 11.00 a.m. to 02.00 p.m. for giving statement. This direction is given as record was shown and submission was made that petitioner did not turn up to show that benefit of the scheme was not given to him and behind his back, the scheme was used for collecting money from Government.

9. It is already observed that though the Commissioner for Co-operation had expressed that criminal action will be taken, no such action is taken. If it is found that false representation was made by the sugar factory and the bank Officers and

by making false representation, benefit of scheme was availed, then on the basis of the statement of petitioner no.2 and aforesaid record, this Court expects the police to register crime and take further action.

10. Stand over to 14.11.2019.

[R.G. AVACHAT, J.]

[T.V.NALAWADE, J.]

kbp