

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C).....CC No(s).
9733/2015

(Arising out of impugned final judgment and order dated 14/05/2015
in DBCWP No. 26/2013 passed by the High Court Of Rajasthan At
Jodhpur)

VINAYAK CREDIT CO-OPERATIVE SOCIETY LTD.

Petitioner(s)

VERSUS

STATE OF RAJASTHAN AND ORS.

Respondent(s)

(With appln. For permission to file SLP)

WITH

SLP(C) No. 16316/2015

(With appln.(s) for exemption from filing c/c of the impugned
judgment and Interim Relief and Office Report)

S.L.P. (C) ...CC No. 9787/2015

(With appln.(s) for permission to file SLP and Interim Relief and
Office Report)

S.L.P. (C) ...CC No. 9869/2015

(With appln.(s) for permission to file SLP and Interim Relief and
Office Report)

S.L.P. (C) ...CC No. 9870/2015

(With appln.(s) for permission to file SLP and Interim Relief and
Office Report)

S.L.P. (C) ...CC No. 9900/2015

(With appln.(s) for permission to file SLP and Interim Relief and
Office Report)

Date : 27/05/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI

HON'BLE MR. JUSTICE UDAY UMESH LALIT

(Vacation Bench)

For the appearing parties:

In SLP CC 9733/15

Mr. Kapil Sibal, Sr. Adv.

Ms. Anuradha Dutt, Adv.

Mr. Munindra Dvivedi, Adv.

Mr. Kuber Dewan, Adv.

Ms. Divya Bhalla, Adv.

Mr. Adit S. Pujari, Adv.

Mr. Masoom K.Shah,Adv.
Mr. Vishwas K./Shah,Adv.
Ms. B. Vijayalakshmi Menon,Adv.

In SLP CC 16316/15 Mr. P.Chidambaram,Sr.Adv.
Mr. Praveen Swarup,Adv.
Mr. Suresh Kumar,Adv.
Mr. Ameet Singh,Adv.
Mr. Sandeep Singh,Adv.
Ms. Pareena Swarup,Adv.
Mr. Vivek Singh,Adv.

In SLP CC 9787 Mr. V.P.Singh,Adv.
Mr. Anil Amrit,Adv.
Mr. Vikas Mehta,Adv.
Mr. Puneet Gowda,Adv.

In SLP CC 9869/15 Ms. Meenakshi Arora,Sr.Adv.
Mr. Nar Hari Singh,Adv.
Mr. Anil Amrit,Adv.

In SLP CC 9870/15 Mr. Parag P.Tripathi,Sr.Adv.
Mr. Masoom Shah,Adv.
Mr. Rahul Gupta,Adv.
Mr. Varun Singh,Adv.
Mr. Vishwas Shah,Adv.

In SLP CC 9900/15 Ms. Anuradha Dutt,Adv.
Mr. Munindra Dvivedi,Adv.
Mr. Kuber Dewan,Adv.
Ms. Divya Bhalla,Adv.
Mr. Masoom K.Shah,Adv.
Mr. Vishwas K./Shah,Adv.
Ms. B. Vijayalakshmi Menon,Adv.
Mr. Mahaling Pandarge,Adv.

UPON hearing the counsel the Court made the following
O R D E R

Permission to file SLPs is granted.

It is, inter alia, argued by the learned counsel for the petitioners, appearing in these petitions, that three Judge Bench of this Court in Greater Bombay Coop. Bank Ltd. vs. United Yarn Tex (P)Ltd. And Others (2007 (6) SCC 236) have held that cooperative societies constituted under State Cooperative Societies Acts or the Multi State

Cooperative Societies Act, 2002, are not 'Banking Companies' as defined under Section 5(c) of the Banking Regulation Act, 1949, and therefore direction of the High Court in the impugned judgment asking the petitioners to seek licenses under Section 22 of the Banking Regulations Act, 1949, are clearly wrong and these societies cannot even be granted such a registration when they are not covered under the Banking Regulation Act, 1949.

In view of the submissions of the learned counsel including the aforesaid submissions specifically taken note of, though we are inclined to issue notice, at the same time we find that there is also a need to regulate the activities of the petitioners' societies appropriately having regard to the manner in which these societies are functioning, as demonstrated, in paras 7, 15 and 17 in particular, in the impugned judgment. It also needs to be considered as to whether the activities amount to 'banking business' and therefore these petitioners can undertake these activities at all or not and insofar as deposits from the members is concerned, in what manner they can be regulated to avoid any malpractices.

Issue notice on special leave petitions as well as on prayer for interim relief, returnable within four weeks.

In the meantime, there shall be stay of directions contained in paras 19 and 20 of the impugned judgment subject to the following arrangement in the interregnum:

(i) Earlier interim order dated 18.3.2015 passed by the High Court in D.B. Civil W.P.NO. 26/2013 shall continue in the meantime;

(ii) it is specifically reiterated that the petitioners shall not carry on 'banking' activity as defined under Section 5(b) of the Banking Regulation Act, 1949;

(iii) No deposits shall be taken from the nominal members;

(iv) no deposits shall be taken from the public, i.e. non-members.

(v) The fresh deposits that shall be taken from the members, shall carry such rate of interest that would not exceed the interest rate allowed by the Reserve Bank of India for nationalized banks.

(SUMAN WADHWA)
AR-cum-PS

(INDU POKHRIYAL)
COURT MASTER