IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

WEDNESDAY, THE 21ST DAY OF JANUARY 2015/1ST MAGHA, 1936

WP(C).No. 1486 of 2010 (I)

PETITIONER:

JAYASOORYAN, S/O.RAGHAVAN,
NAMBODI VAYALIL HOUSE, VATTOLI POST, KAKKATTIL,
VADAKARA TALUK, KOZHIKODE DISTRICT.

BY ADV. SRI.JOHN JOSEPH(ROY)

RESPONDENTS:
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1. THE UNION OF INDIA REPRESENTED BY THE
   SECRETARY TO GOVERNMENT OF INDIA AND CHAIRMAN OF
   MONITORING COMMITTEE, DEPARTMENT OF FINANCIAL SERVICE,
   MINISTRY OF FINANCE, CENTRAL SECRETARIAT, NEW DELHI.

2. THE SECRETARY TO GOVERNMENT OF INDIA,
   AGRICULTURAL AND CO-OPERATION DEPARTMENT,
   MINISTRY OF AGRICULTURE, CENTRAL SECRETARIAT,
   NEW DELHI.

3. NATIONAL BANK FOR AGRICULTURAE AND
   RURAL DEVELOPMENT, NEW DELHI. (* DELETED)

4. STATE OF KERALA REPRESENTED BY THE
   CHIEF SECRETARY TO GOVERNMENT OF KERALA, SECRETARIAT,
   THIRUVANANTHAPURAM.

5. VADAKARA CO-OPERATIVE AGRICULTURAL AND
   RURAL DEVELOPMENT BANK LTD., REPRESENTED BY ITS
   SECRETARY, KAKKATTIL P.O., VADAKARA
   KOZHIKODU DISTRICT

* 3RD RESPONDENT IS DELETED FROM THE PARTY ARRAY AT THE PETITIONER'S RISK AS PER ORDER DATED 06-02-2012 IN IA 1238/12

R1 & R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL OF INDIA

R4 BY GOVERNMENT PLEADER SRI.SOJAN JAMES (SENIOR)

R5 BY ADV. SRI.V.G.ARUN
R5 BY ADV. SRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 1486 of 2010 (I)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE LOAN LEDGER EXTRACT OF THE PETITIONER'S LOAN NO.RCP NO.141 AVAILED IN 12/10/1993

EXT.P2: TRUE COPY OF THE LOAN LEDGER EXTRACT OF ANOHTER LOAN NO.ARCLD 58 AVAILED ON 20/09/2006 DUSBURSED BY THE 6TH RESPONDENT.

EXT.P3: TRUE COPY OF THE LOAN LEDGER EXTRACT ISSUED BY THE 6TH RESPONDNET.

EXT.P4 TRUE COPY OF THE RELEVANT PORTION THAT IS ITEM 73 OF THE DECLARATION MADE BY THE HON'BLE PRIME MINISTER BEFORE THE PARLIAMENT ON 29/02/2008

EXT.P5: TRUE COPY OF THE AGRICULTURAL DEBT WAIVER AND DEBT RELEIF SCHEME-2008 PUBLISEHD BY THE 3RD RESPONDENT.

EXT.P6: TRUE COPY OF THE LETTER CLARIFYING THE ISSUE DATED 18/08/2008

EXT.P7: TRUE COPY OF THE DEMAND NOTICE DATED 01/09/2009

EXT.P8: TRUE COPY OF THE REPRESENTATION DATED 24/11/2009

RESPONDENTS' EXHIBITS:

EXT.R5 (a): A TRUE COPY OF THE PETITIONER'S LOAN LEDGER EXTRACT PERTAINING TO THE LOAN NO.R.C.II FRSS 141.

EXT.R5(b): A TRUE COPY OF THE PETITIONER'S LOAN LEDGER EXTRACT PERTAINING TO THE LOAN NO.ARF LD-58

EXT.R5(c): A TRUE COPY OF THE PETITIONER'S LOAN LEDGER EXTRACT PERTAINING TO THE LOAN NO.ARF LD-144

/TRUE COPY/

P A TO JUDGE

MJL

C.K. ABDUL REHIM, J.

W.P.(C)No.1486 of 2010

Dated this the 21st day of January, 2015

JUDGMENT

Grievance of the petitioner is that the 5th respondent Bank had not permitted full waiver of amounts outstanding for payment in the 3 loan accounts availed by the petitioner. The petitioner sought for waiver of the entire amounts outstanding in the loan accounts, based on the "Agricultural Debt Waiver and Debt Relief Scheme" introduced by the Central Government, based on Ext.P4 speech made by the hon'ble Prime Minister of India in the Parliament, and based on Ext.P5 scheme formulated by the Ministry of Finance, Government of India, with respect to which necessary directions were issued as per Ext.P6 guidelines. Based on the allegation that the non-granting of full waiver of the loan accounts was not legal and proper, the petitioner is also challenging Ext.P7 demand notice issued by the 5th respondent seeking recovery of the balance amounts.

2. Learned counsel for the petitioner had raised a contention that incorporation of a cut-off date in Ext.P5 scheme, making the loans availed after 31/03/1997 alone within the purview of the scheme, is illegal and is contrary to the promise made by the Government in the Parliament speech. But there is no specific challenge raised against Ext.P5 scheme in the writ petition.

3. In the counter affidavit filed by the 5th respondent it is mentioned that, the 1st loan was availed by the petitioner on 12/10/1993 and an amount of Rs.1,688/- was adjusted towards waiver in the said loan account, based on an earlier Debt Relief Scheme prevailing namely, the "Debt Relief Scheme of 2005". It is stated that since the loan was availed prior to 31/03/1997 the benefit of Ext.P5 scheme cannot be extended with respect to the said loan. So also in the case of the 2nd loan which was availed on 03/09/1996, the benefit under Ext.P5 cannot be extended. However an amount of Rs.4,832/- was adjusted towards the petitioner's liability in the said loan on the basis of the "Debt relief Scheme of the year

2005". It is further mentioned that with respect to the 3rd loan, which was availed on 22/06/1998, waiver was allowed on the basis of Ext.P5 scheme and an amount of Rs.14,357/- was adjusted in the said loan account. According to the 5th respondent, the balance amount demanded for payment in Ext.P7 is the amount remaining due after making adjustments as mentioned above. Therefore, the challenge against Ext.P7 deserves no merit, is the contention.

4. Prima facie, this court is not satisfied that a full waiver of all the 3 loans availed by the petitioner, under Ext.P5 scheme, is possible. However, learned counsel for the petitioner raised a complaint that a detailed statement with respect to calculation of the amounts allowed as waiver under both the schemes is not furnished by the 5th respondent. This court is of the considered opinion that any dispute on correctness of the amounts due cannot be adjudicated in this writ petition, which is filed under Article 226. If the petitioner has got any grievance in this regard he has to agitate the same

before the appropriate authority.

5. It is noticed that under Ext.P5 scheme the lending institutions are at an obligation to appoint "Grievance Redressal Officers" in every State and to report such appointment to the NABARD. If the petitioner has got any grievance with respect to his entitlement for waiver of more amounts under the scheme, it is left open to the petitioner to approach such "Grievance Redressal Officer" and to seek remedies.

Leaving open liberty to the petitioner as mentioned above, this writ petition is hereby disposed of.

Sd/- **C.K. ABDUL REHIM**
JUDGE

MJL