IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.22190 of 2014

S.Sundaresan .. Petitioner

Versus

1. The Chairman,Tamilnadu Adi-Dravidar Housing and Development Corporation Ltd.
No.31 Centaph Road, 2nd Lane,
Teynampet, Chennai-600 018.

2. The Managing Director
Tamilnadu Adi-Dravidar Housing and
Development Corporation Ltd. TNHB Shopping
Complex Muggapair Road, Thirumangalam,
Chennai-101.

3. The District Collector,
Thiruvannamalai, Thiruvannamalai District.

4. The District Manager
Tamilnadu Adi-Dravidar Housing and
Development Corporation Ltd.
Thiruvannamalai District,
No.183 Muthu Vinayagar Koil Street,
Tiruvannamalai.

5. The Manager
Thiruvannamalai Central Co-operative Bank
Head Office, Gandhi Nagar,
Thiruvannamalai District.

6. The Branch Manager
Thiruvannamalai Central Co-operative Bank
Cheyyar Branch, Cheyyar,
Thiruvannamalai District.

7. The Manager/Secretary
Primary Agricultural Co-operative Society
Arugavoor, Cheyyar Taluk,
Thiruvannamalai District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the 7th respondent to take appropriate action pursuant to the proceedings of the 4th respondent in Na.Ka. /EDP/1121/2013-14 dated 22.02.2014 and grant loan to the petitioner under the TAHDCO-2013-2014 Entrepreneur Development Programme (EDP) without insisting the petitioner to furnish the property or any other security for granting the loan.

For Petitioner	:	Mr. A.Ilaya Perumal
For Respondents 1,2, 5 to 7	:	Mr.L.P.Shanmugasundaram, Spl.Govt. Pleader
For Respondent - 3	:	Mr.T.P.Savitha
For Respondent - 4	:	Mr.N.Syed Jamal

ORDER

By consent of the learned counsel on either side, the writ petition is taken up for final disposal. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and perused the materials placed on record.

2. Petitioner in this writ petition seeks for issuance of a writ of mandamus to direct the seventh respondent i.e., Primary Agricultural Society to grant loan to the petitioner based on the recommendation given by the fourth respondent i.e., Tamil Nadu Adi-Dravidar Housing and Development Corporation Limited (TAHDCO). The petitioner submitted an application before the District Manager, Thiruvannamalai District on 28.12.2013 for grant of loan under TAHDCO 2013-2014 Entrepreneur Development Programme (EDP). The fourth respondent processed the application and found that the petitioner was eligible for grant of loan for an approximate value of Rs.3 lakhs, Out of which, the petitioner has to contribute Rs.15,000/- and the TAHDCO has granted the subsidy of Rs.90,000/- and the balance of Rs.1,95,000/- will be sanctioned as loan. Pursuant to the same, the fourth respondent being satisfied as regards the petitioner's eligibility for the loan of Rs.3 Lakhs, referred the application for grant of loan to the seventh respondent, which is a co-operative society also engaged in financial and banking business. Since the seventh respondent Co-operative Society was willing to sanction the loan of Rs.1,95,000/- provided the petitioner furnishes security, to secure the loan transactions, the petitioner has approached this court by filing the writ petition stating that the seventh respondent cannot insist upon providing security by way of immovable property or any other security since the loan is sanctioned in terms of the guidelines issued by the RBI i.e, upto to an amount of Rs.10 lakhs no security is required. In this regard, the learned counsel for the petitioner has drawn the attention of this Court to the proceedings

of the fourth respondent dated 22.02.2014 and would state that the seventh respondent cannot insist upon furnishing immovable property security and the same is without jurisdiction. In this regard, reference is also made to the RBI Circular dated 06.05.2010 stating that collateral free loans should be granted to MSE sector upto Rs.10 lakhs.

3. Learned counsel further submitted that even at the time when the petitioner submitted an application to the fourth respondent and the same was considered and favourable orders were passed, these objections were not taken either by the fourth respondent or by the seventh respondent. Therefore, learned counsel submitted that appropriate directions may be issued to the seventh respondent to sanction the loan without insisting on security.

4. Learned counsel for the fourth respondent referred to an order passed by this Court in W.P.No.28821 of 2014, dated 09.02.2014 and prays that similar direction may be issued.

5. Learned counsel for the seventh respondent has strongly objected to the claim made by the petitioner. It is submitted that, seventh respondent is a Primary Agricultural Co-operative Society and is a separate legal entity registered under the Co-operative Society Act and does not carry on banking business, within the definition of banking, as defined under Section 5(b) of the Banking Regulation Act, 1949. Further, it is stated that the fourth respondent has no power to entertain the loan policy of the Primary Agricultural Co-operative Society and they are governed by the various circulars issued by the Registrar of Co-operative Society and the directions issued by the Government from time to time. Counter affidavit has been filed by the seventh respondent on the above lines and it is submitted that they would not be in a position to sanction loans without furnishing security in the light of circular and directions issued in this regard by the Controlling Authority, namely, the Registrar of Co-operative Societies.

6. In reply, learned counsel for the petitioner submitted that the RBI guidelines are applicable to all banking concerns and therefore, it is submitted that loan has to be sanctioned by the seventh respondent without insisting upon any security.

7. After hearing learned counsel on either parties, perusal of material placed on record, it has to be pointed out that the seventh respondent is an Agricultural Primary Co-operative Society. The question that would fall for consideration is whether the guidelines issued by the RBI for providing disbursement of loan for self employment can be made applicable without the same having been specifically adopted by the Co-operative society. No doubt, it is true that while passing the order dated 23.02.2014, the fourth

respondent has referred to the guidelines of RBI stating that loans upto Rs.10 lakhs will be granted without insisting upon immovable security. Further, this condition/clause mentioned in the proceedings of the fourth respondent dated 22.02.2014 does not have specific reference to the loan disbursement policy as framed by the Co-operative Societies. It is the specific case of the seventh respondent that it does not carry on "banking business" and it is a Primary Agricultural Co-operative Society. The petitioner is not able to place any materials to show that the seventh respondent is carrying on "banking business" within the definition of "banking", as defined under Section 5(b) of the Banking Regulation Act, 1945. In such circumstances, the fourth respondent should have taken due care to see that loan application is forwarded to any nationalised banks so that these issues could have been avoided.

8. In my view, there would not be any further examination into this controversy since the filing of this writ petition itself is to secure a loan of Rs.1,95,000/- so as to enable the petitioner to be self-employed. Thus, bearing in mind the purpose for which the petitioner has approached this Court, the writ petition is disposed of with the direction to the fourth respondent i.e., to nominate any other nationalised bank in and around Cheyyar, Tiruvannamalai District, so as to enable the petitioner to obtain the loan without furnishing immovable secutiry. The above direction shall be complied with, within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

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1 cc to Mr. N.Syed Jamal,Advocate, SR.No.22878
1 cc to Mr.L.P.Shanmugasundaram, ,Advocate, SR.No.23014
1 cc to Mr.A.Ilaya Perumal ,Advocate, SR.No.22645
1 cc to Government Pleader,Sr.No.22532

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RJ(CO)
PMK.14.5.2015