HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 4296 of 2009

ORDER:

_

Challenging the action of the respondents in not extending the benefit under Agricultural Debt Waiver and Debt Relief Scheme, 2008 to the three gold loan accounts of the petitioner, the present writ petition came to be filed.

The brief facts of the case are as under:

The petitioner, who claims to have been possessing agricultural lands admeasuring Ac.0.58 cents in Sy.No.979/3B situated in Jampani Village, Vemuru Mandal, Guntur District and also land admeasuring Ac.2.53 cents in Sy.No.1277, 299/5, 298/1 and 299/4 was taken on lease from K.Prabhakar, obtained short term agricultural loans in the year 2006 vide account Nos.62012799111, 62012805252 and 62012945959 from State Bank of Hyderabad, Chavali Branch with an interest @ 7% p.a. It is averred that the petitioner failed to repay the amount due to unforeseen floods in the year 2006-2007. While things stood thus, the Government of India announced a package of Agricultural Debt Waiver and Debt Relief Scheme, 2008 (for short "the Scheme") with an intention to benefit the distressed farmers to whom loans were advanced by the scheduled commercial banks on the following conditions.

a) disbursed between March 31st 1997 and March 31st 2007

b) Over Due on December 31st 2007 and

c) Remaining unpaid until February 29, 2008

It is averred that though the loan accounts of the petitioner are eligible for waiver under the scheme, the name of the petitioner was not listed in the waiver notice placed in the bank of respondent No.1. Accordingly, the petitioner made a representation on 18.07.2008 to consider her case under the scheme. The said representation was referred to respondent No.2 i.e. State Bank of Hyderabad, Zonal Office, Visakhapatnam, who, by his letter dated 27.09.2008 directed the petitioner to pay interest at the normal rate as applicable to non-agricultural loans from the date of sanction of the loan. Pursuant thereto, the respondent No.1 is said to have changed the rate of interest from 7% to 15.25%. Later, the petitioner made a representation dated 02.12.2008 requesting respondent No.2 to consider the three accounts on which loan was taken under the scheme. The same was again referred to respondent No.3, who, by its orders dated 31.12.2008 confirmed the earlier order by giving three reasons for converting the agricultural gold loan to commercial gold loan. Assailing the same the present writ petition came to be filed.

While issuing notice, this Court on 04.03.2009 passed the following order:

> "*Prima facie,* the impugned order dated 27.09.2008 passed by the third respondent reveals that the loans availed by the petitioner could not be considered under Agriculture Segment, and such decision was taken with reference to the guidelines issued by the Reserve Bank of India/Govt. of India under the Agricultural Debt Waiver and Debt Relief Scheme, 2008. In pursuance of the impugned order, the 1st respondent issued a Notice dated 22.11.2008 demanding the petitioner to repay the overdue amount within 10 days from the date of that notice.
>
> However, the learned counsel for the petitioner has submitted that he has preferred an appeal challenging the impugned order, and pending consideration of the appeal, he prays that interim relief may be granted. Hence, this Court is of the view that unless and until respondents are served with notices and heard, no interim relief as prayed for, can be granted.
>
> The auction as scheduled, may go on, however, it shall not be finalized."

A counter came to be filed by the respondents contending that the benefits of the scheme cannot be extended to the petitioner as she obtained loans by suppressing the facts. It is stated that the petitioner made an application for agriculture loan against pledge of gold ornaments on 21.08.2006 for an amount of Rs.50,000/- by declaring that she has been cultivating paddy in Ac.5.00 of land for which the cultivating expenses would be Rs.50,000/-. On the same day another application was made seeking loan of Rs.43,500/- which was sanctioned by the Bank. In the said application also she declared that she would be cultivating the land admeasuring Ac.5.00. On 23.08.2006 the petitioner made an application for sanction of Rs.88,400/- for cultivating paddy in Ac.5.00

of land which was also sanctioned. It is stated that even if the cultivation of land, as stated in the affidavit is true and correct, the petitioner is only entitled to Rs.31,100/- to cultivate paddy in land admeasuring Ac.3.11 cents in Jampani Village. It is stated that the scale of finance availed by the petitioner for cultivating Ac.3.11 cents is highly excessive and disproportionate to the norms.

It is further stated in the counter that, as per the declaration, the total value of the yield is Rs.1,00,000/- and cultivation expenses is at Rs.50,000/-. That being the position, she cannot avail the loan under agricultural segment against security of gold ornaments to morethan Rs.50,000/- but the case on hand is otherwise. Apart from that it is further stated that the petitioner never attended to any of the agricultural operations at Jampani Village and that she is working at Guntur. It is alleged that by suppressing the said fact she availed the agricultural gold loan at lower rate of interest. It is further stated in the counter that the plea of the petitioner that agriculture land to an extent of Ac.2.05 cents was taken on lease from K.Prabhakar Rao is also false and the documents are created only to make a false claim in support of the relief in the writ petition. It is specifically stated that all the three loans were sanctioned basing on the declaration made by the petitioner, which, on verification, was found to be false.

Learned counsel for the petitioner mainly submits that the allegations made against the petitioner are all false and invented for the purpose of this case. It is his case that the respondent No.1 bank after verification of the application granted three loans and as such it cannot be said that the petitioner has mislead the bank or suppressed the true facts. In any event he submits that the order of enhancing the interest from 7% to 15.25% came to be passed without issuing any notice to the petitioner or hearing the petitioner.

Learned Standing Counsel appearing for the respondents Bank would submit that the petitioner is not entitled any benefit under the scheme, as their enquiries revealed suppression of true facts while availing the loan. It is further stated that basing on the representation made by the petitioner only the order under challenge came to be passed and as such the question of giving notice to the petitioner would not arise. Apart from that he submits that this is a flagrant case of misappropriation of government money by making false disclosures which deserves no sympathy from the Court.

It may be true that the petitioner has misleads the bank or suppressed the real information while taking agricultural gold loan in the year 2006. It may also be true that the petitioner is not entitled for any of the benefits under the scheme initiated by the Government of India in the year, 2008, but one thing which requires consideration is whether the petitioner was put to notice before conversion of agricultural loan to non-agricultural and enhancing the rate of interest from 7% to 15.25%. Admittedly the loan amounts were disbursed in the year 2006. The Government of India announced the scheme in the month of May, 2008 to the distressed farmers, who availed agricultural on fulfillment of three conditions.

a) disbursed between March 31st 1997 and March 31st 2007

b) Over Due on December 31st 2007 and

c) Remaining unpaid until February 29, 2008

Pursuant to the scheme announced by the Government of India, the petitioner made an application on 18.07.2008 requesting the bank authorities to consider her case for extension of benefit under the scheme. Thereafter a communication was sent to the petitioner on 27.09.2008 informing her that the benefit of the scheme cannot be extended and that she is liable to pay interest @ 15.25% to non-agricultural loan from the date of sanction. Thereafter, she made another representation dated 01.11.2008 to Reserve Bank of India informing about the letter dated 27.09.2008 received by her on 22.10.2008 and when the Branch Manager of State Bank of Hyderabad, Chavali, was contacted about the same, he is said to have informed her that the scheme is closed. On 17.11.2008, the Reserve Bank of India wrote a letter to the petitioner, by referring to her letter dated 01.11.2008, stating that the grievance redressal officer of the lending bank, appointed under the captioned schemes, is the authority to receive representations from the aggrieved farmers and pass appropriate orders which shall be final. Meanwhile, on 22.11.2008 the petitioner received three notices from the bank demanding payment of overdue amount within ten days from the date of notice, failing which the bank would be constrained un-pleasant steps for realization of the entire amount due to the bank. On 31.12.2008 the State Bank of Hyderabad, Zonal Office, Visakhapatnam wrote a letter to the petitioner reiterating the contents of the earlier letter dated 27.09.2008 and at the same time stating that the petitioner is not entitled for any benefit as she was working in Guntur; availed high amount of loan relating to declared land holding and scale of finance.

From the above, one thing which emerges out is that the petitioner was never issued any notice as to why and under what circumstances the agriculture loan obtained by her by pledging gold was converted to non-agiruclutral loan with higher rate of interest. As stated earlier, the petitioner herself made an application on 18.07.2008 requesting the respondents bank to extend the benefit of the scheme to the loans availed by her towards agricultural operations. A reply to the said letter came to be issued on 27.09.2008 whereby the respondents bank not only refused to extend the benefits under the scheme but on their own converted the loan from agricultural to non-agricultural and enhanced the rate of interest.

Though number of document are filed along with the counter with regard to the scheme, but none of the documents revealed the issuance of notice to the petitioner with regard to alteration of the scheme due to suppression of certain facts while making an application. Infact, the first order dated 27.09.2008 does not give any reasons as to why the petitioner is not entitled the benefit of the scheme and also as to why she has to pay interest at normal rate as applicable to non-agricultural loan from the date of sanction. Since the order under challenge came to be passed without hearing the petitioner on the issue of conversion of loan from agricultural to non-agricultural and enhancement of interest from 7% to 15.25%, the same is set-aside giving liberty to the respondents bank to issue notice and pass appropriate orders after hearing the petitioner. The said exercise shall be completed as expeditiously as possible preferably within a period of six (06) weeks from the date of receipt of a copy of the order.

With the above direction, the writ petition is disposed. No order as to costs.

Consequently, miscellaneous petitions, if any, pending in this Writ

Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

20.11.2015

gkv