IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.04.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.12733 of 2016
and
W.M.P.No.11138 of 2016

The Transport Corporation Employees' Cooperative Thrift and Credity Society Ltd.,
rep. by its Secretary,
Teynampet, Chennai - 600 018. ...Petitioner

Vs.

1. The Secretary to Government and Chairman,
State Transport Undertakings Transport Department,
Secretariat, Chennai - 600 009.

2. The Managing Director,
Tamil Nadu Government Transport Corporation Ltd.,
Villupuram Division,
Villupuram (PO).

3. The Managing Director,
Metro Transport Corporation,
Pallavan Illam, Pallavan Salai,
Chennai - 600 002. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the second and third respondents to make payments of the amount of Rs.7654.27 lakhs recovered from the salaries of the employees towards the loan dues of the petitioner upto the month of February, 2016 and also to make such future payments in accordance with the provisions contained in Section 48 of the Tamil Nadu Cooperative Societies Act, 1983 read with Rules 69 (4) and (7) of Tamil Nadu Cooperative Societies Rules, 1988.

For Petitioner :Mr.P.Anbarasan
For Respondent-1 :Mr.R.Rajeswaran
Special Government Pleader

For Respondents 2 and 3 :Mr.P.Paramasivadoss
standing Counsel

O R D E R

The prayer in the Writ Petition is for issuance of a writ of mandamus to direct respondents 2 and 3, viz., i) Tamil Nadu Government Transport Corporation Ltd and ii) Metro Transport Corporation, to make payments of Rs.7654.27 lakhs, payable by them to the petitioner/Society, towards the loan availed by their employees, and also to direct the respondents 2 and 3 to make such future payments in accordance with the provisions contained in Section 48 of the Tamil Nadu Cooperative Societies Act, 1983 read with Rules 69 (4) and (7) of Tamil Nadu Cooperative Societies Rules, 1988.

2. Heard Mr.P.Anbarasan, learned counsel appearing for the petitioner, Mr.R.Rajeswaran, the learned Special Government Pleader for first respondent, and Mr.P.Paramasivadoss, learned Standing Counsel for respondents 2 and 3.

3. The petitioner is the Transport Corporation Employees' Cooperative Thrift and Credit Society. The petitioner/Society extends financial assistance to the employees of the Tamil Nadu Government Transport Corporation, viz., the second respondent as well as the Metro Transport Corporation, the third respondent. The Scheme of Arrangement entered into between the petitioner/Society and the respondents 2 and 3 is that financial assistance extended by the petitioner/Society to the employees of the respondent/Corporation will be recovered by the respondent/Corporation from the monthly salary of the employees, and remitted to the petitioner/Society, who in turn will repay the loan obtained by them from the Central Cooperative Bank/Financing Bank. Admittedly, the deduction from the salary of the employees has been done by respondents 2 and 3, but they have defaulted in repaying the amount, so recovered, to the petitioner/Society. Thus, as on date, respondents 2 and 3 are defaulters in the eyes of the law. The amount payable to the petitioner/Society is Rs.7654.27 lakhs.

4. The respondents 2 and 3 filed counter affidavit individually, sworn to by the Financial Adviser and Chief Accounts Officer and Senior Deputy Manager (HRD). The averments in the counter affidavit are absolutely vague and from the averments, it is clear that the respondents 2 and 3 do not dispute their liability, but have vaguely stated that the issue is highly complicated and detailed fiscal transaction cannot be examined or resolved in a writ petition.

5. The vague averments raised by respondents 2 and 3 deserves to be summarily rejected for the reason that there is no complexity of transaction, since the transaction is clear, as the employees of the respondent/Corporation availed loan from the petitioner/Society and the loan amount availed by them is also taken note of, and what amount is to be deducted from their monthly salary also finds place in the pay slip issued to the concerned employee. Therefore, only to get over any direction to be issued by this Court, these vague averments have been raised. The respondent/Corporation have admitted their liability, but they seek to justify the delay in payment of the balance amount by citing various other reasons, for which, the petitioner/Society has incurred financial commitments. The averments set out in para No.7 of the counter affidavits are all causes, which have to be observed by the Corporation either because of the policy decision taken by the Government of Tamil Nadu, or Government of India, or account of force majeure condition.

6. Therefore, abovesaid factors, pleaded in the counter affidavits, can have no impact on the liability of the respondent/Corporation to the petitioner/Society. The ultimate sufferer, on account of the default committed by respondents 2 and 3 are the employees, since, on account of the fact that they have not remitted the loan amount, despite having recovered from the salary of the employees, the employees will be shown as defaulters in the accounts of the petitioner/Society. It would not only cast a stigma on the employees, but also prevents them from availing a fresh loan in need of urgency. That apart, it has got a cascading effect, since the petitioner/Society will be not in a position to borrow loan from the funding society, viz., Central Cooperative Banking Society, and on account of that, the petitioner/Society would become defaulter with the Central Cooperative Banking Society, and they will be liable to pay the amount along with interest, which may have a further cascading effect on the Board of Directors, who in turn are paid employees of the respondents 2 and 3. Therefore, it is high time for respondents 2 and 3 to settle the entire dues to the petitioner/Society. However, taking into consideration the over all financial position of respondents 2 and 3, this Court is inclined to grant five months for settling the entire liability. It is made clear that the aforesaid payment shall be effected without reference to the past arrears, and it is needless to say that the current dues should also to be settled promptly.

7. With the above directions and observations, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government and Chairman,
State Transport Undertakings Transport Department,
Secretariat, Chennai - 600 009.

2. The Managing Director,
Tamil Nadu Government Transport Corporation Ltd.,
Villupuram Division,
Villupuram (PO).

3. The Managing Director,
Metro Transport Corporation,
Pallavan Illam, Pallavan Salai,
Chennai - 600 002.

+1cc to Mr.P.Anbarasan, Advocate, S.R.No.24326
+1cc to Mr.P.Paramasivadoss, Advocate, S.R.No.25197
+1cc to the Government Pleader, S.R.No.24581

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ks(CO)
srg(3/05/2016)