IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.5776 of 2015
Date of Decision:31.03.2016

Ram Kumar ....Petitioner

Versus

Sarva Haryana Gramin Bank and another .....Respondents

CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI

Present: Mr.Ashok Kumar Sharma (Bhana), Advocate
for the petitioner

Mr.A.S.Gagrha, Advocate
for the respondent-Bank

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S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

The petitioner seeks a writ to quash an order setting aside the order dated 15.12.2014 passed by the Sub Divisional Officer, Hansi, who is the prescribed authority under the Haryana Agricultural Credit Operation and Miscellaneous Provisions (Banks) Act, 1973.

2. On 15.03.2007, the respondent-bank advanced an investment loan to the petitioner for purchase of a tractor. It is important to note that the amount was to be repaid only after one year i.e.on 15.03.2008.

3. The petitioner claims to be entitled to have his entire loan waived in view of the provisions of the Agricultural Debt Waiver and Debt Relief Scheme, 2008(for short 'the Scheme'). The Finance Minister in his Budget Speech for the year 2008-09, announced a

debt waiver and debt relief scheme for farmers. The Scheme contains the guidelines for its implementation. The relevant clauses read thus:

> ***3. Definitions***
>
> *3.3 'Investment Loan' means*
>
> *(a) investment credit for direct agricultural activities extended for meeting outlays relating to the replacement and maintenance of wasting assets and for capital investment designed to increase the output from the land, e.g. deepening of wells, sinking of new wells, installation of pump sets, purchase of tractor/pair of bullocks, land development and terms loan for traditional and non-traditional plantations and horticulture; and ......*
>
> *3.6 'Small Farmer' means a farmer cultivating (as owner or tenant or share cropper) agricultural land of more than 1 hectare and up to 2 hectares (5 acres).*
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> ***4. Eligible amount***
>
> *4.1 The amount eligible for debt waiver or debt relief, as the case may be(hereinafter referred to as the 'eligible amount'), shall comprise of:*
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> *(b) In the case of an investment loan, the installments of such loan that are over due (together with applicable interest on such installments) if the loan was:*
>
> *(i) disbursed upto March 31, 2007 and overdue as on December 31, 2007, and remaining unpaid until February 29, 2008 ;...."*
>
> ***5. Debt Waiver***
>
> *5.1 In the case of a small or marginal farmer, the entire 'eligible amount' shall be waived.*

4. The petitioner is a small farmer as defined in clause 3.6 as he owns more than 1 hectare of land but less than 2 hectares. Clause 5 provides that in the case of a small farmer, the entire

'eligible amount' shall be waived. The question, therefore, is whether the petitioner's dues fall within the expression 'eligible amount'. The answer is in Clause 4. Clause 4(b) is relevant in the case as the loan advanced to the petitioner was an investment loan. Under Clause 4 (b)(i) for amounts due under an investment loan to be eligible for debt waiver, three conditions must be fulfilled viz. (i) the loan must have been disbursed upto 31.03.2007; (ii) the loan was overdue as on 31.12.2007 and (iii) the loan remained unpaid until 29.02.2008. The first and the third conditions are satisfied in the petitioner's case but not the second. The petitioner's loan was not overdue as on 31.12.2007. The waiver of the installments would be permissible in the petitioner's case if the loan was disbursed up to 31.03.2007 and was overdue as on 31.12.2007 and remained unpaid until 29.02.2008. In the petitioner's case, the loan was not overdue as on 31.12.2007. As we mentioned earlier, the loan was overdue only on 16.03.2008. The question, therefore, of the amount remaining unpaid until 29.02.2008 does not arise.

5. We do regret our inability to grant the petitioner any relief. Despite having gone through the Scheme more than once, with the assistance of learned counsel, we are unable to find any provision, entitling us to grant the petitioner a declaration that the loan is waived. Although, it is difficult to understand why such small farmers have been excluded from the Scheme that is not the question before us. We are, therefore, unfortunately unable to grant the petitioner any relief. However, considering the nature of the loan and the circumstances which the petitioner is in, we would request the

respondent-Bank to consider his application for a One Time Settlement(OTS) and to grant him the maximum permissible facilities for repayment of the loan in terms of installments and reduction if not waiver of interest. The petitioner's bona fides are clear. He is willing to repay the principal. We are not dealing with the question of interest as the respondent-Bank has not indicated the provisions under which it is entitled to charge the same. Needless to add that if there are no provisions for interest, the respondent-Bank would not be entitled to claim the same.

6. From an interim order dated 27.03.2015, we note that at one stage, the petitioner had undertaken to repay the loan in half yearly installments of ₹ 40,000/-. Learned counsel for the petitioner states that the petitioner had deposited the first installment of ₹ 40,000/-. The petitioner is always at liberty to make an application before the respondent-Bank for rescheduling the repayment.

7. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

March 31, 2016
neenu/ravinder