

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.43020 of 2006

and

M.P.No.2 of 2006

Arulmighu Devi Karumari Amman Thirukovil,
Thiruverkadu,
Rep by its Deputy Commissioner/
Executive Officer,
Chennai 600 077.

.... Petitioner

Vs.

- 1.The Union of India,
Rep by its Post Master General,
Head Post Office, Mount Road,
Chennai 600 002.
- 2.The Senior Superintendent of Post Offices,
Tambaram Division, Tambaram.
Chennai 600 045.
- 3.The Post Master,
Poonamallee Post Office,
Poonamallee,
Chennai 600 056.
- 4.The Post Master,
Thiruverkadu Sub Post Office,
Thiruverkadu,
Chennai 600 077.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records leading to the issue of proceedings No.CPT/SB-3/02 dated 22.09.2003, on the file of the 2nd respondent herein and quash the same and direct the respondents herein to pay the sum of Rs.46,69,200/- being the agreed balance double amount due for the sum of Rs.46,69,200/- deposited with the Postal Department by means of Kisan Vikas Patra and National

Saving Certificate for the 5 years and 6 months for which period, the said sum was available with the respondents along with further interest at 18% p.a. till date of payment.

For Petitioner : Mr.K.Sridhar
for Mr.L.Kishore

For Respondents : Ms.Sunitha Kumari,
Central Government Standing Counsel

O R D E R

Heard Mr.K.Sridhar, learned counsel for the petitioner and Ms.Sunitha Kumari, learned Central Government Standing Counsel for the respondents.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, to call for the entire records leading to the issue of proceedings No.CPT/SB-3/02 dated 22.09.2003, on the file of the 2nd respondent herein and quash the same and direct the respondents herein to pay the sum of Rs.46,69,200/- being the agreed balance double amount due for the sum of Rs.46,69,200/- deposited with the Postal Department by means of Kisan Vikas Patra and National Saving Certificate for the 5 years and 6 months for which period, the said sum was available with the respondents along with further interest at 18% p.a. till date of payment."

3. The case of the petitioner is as follows:-

The petitioner is a Temple and the Temple is governed by Hindu Religion and Charitable Endowments Department. The Temple had deposited a total sum of Rs.43,69,200/- with Post Master, Poonamallee post Office, Poonamallee, Chennai - 600 056, the third respondent herein, as Kisan Vikas Patras (KVP) and National Saving Certificate between the period from 07.08.1996 to 22.02.1997. Thereafter, a further amount of Rs.3,00,000/- was also deposited with the Post Master, Thiruverkadu, Chennai - 600 077, towards the same scheme and in all, total deposit which was made with the respondents was Rs.46,69,200/-, that the amount should lie in the deposit for a period of 5 years and 6 months on assurance that the depositors would be paid double the amount of the deposit. According to the petitioner, an interest of 18% was promised on the principal amount for the period of 5 years and 6 months.

4. According to the petitioner, since the Postal Department was a part of the Union of India, the petitioner

decided to make huge deposit with the respondents expecting a good return from the deposit promised by them. After maturity of the deposits, when a request was made for return of the deposit with interest as assured, the impugned order No.CPT/SB-3/02 was issued on 22.09.2003, informing the petitioner Temple that no interest was payable to the petitioner since the scheme was discontinued in respect of the institutional investment.

5. However, without prejudice to the right, the petitioner withdrawn the deposit amount of Rs.46,69,200/- which represented only the principal amount deposited by the petitioner. According to the petitioner, the respondents are liable to pay equal amount of the deposit as assured by them as contemplated in the scheme towards which such deposits were made originally from 1996 to 1997. In the circumstances, the petitioner is before this court seeking to challenge the impugned communication dated 22.09.2003.

6. Upon notice, the learned Central Government Standing Counsel for the respondents entered appearance and filed a detailed counter affidavit. According to the learned standing counsel for the Central Government, the scheme relied on by the petitioner was discontinued by the Government, in respect of the institutions with effect from 01.04.1995 and therefore, the deposits were wrongly accepted by the authorities concerned from the petitioner Temple. Since the scheme was discontinued earlier to the receipt of deposits, no interest was payable on the deposits made by the Temple. Although the deposits were accepted, in the absence of the scheme, no interest became payable on the deposits. Therefore, the principal amount which was lying in deposit was returned after the expiry of the maturity period.

7. Per contra, the learned counsel for the petitioner would submit that the petitioner Temple is not a institution, it is a juridic person and therefore, the exclusion as contended by the learned counsel for the respondents cannot be applied to the petitioner. According to the learned counsel, the amount deposited with the respondents are the amount belonging to the devotees and it was a public money which was invested with the fond hope of reaping good returns for the deposits. Having accepted deposits and kept the same during the scheme period, it was not open to the respondents to return merely principal amount, stating that the scheme was withdrawn as regards the institution deposits were concerned.

8. The learned counsel for the petitioner would submit that it is needless to mention that if the Temple had invested the same amount in any other institution, the Temple could have got good returns for the period since the deposit amount was

quite sizable and huge. By the conduct of the respondents, the Temple was otherwise prevented by making deposit in any other schemes. Therefore, he would submit that the respondents may be directed to pay the petitioner Temple equal amount of deposit made by them in respect of the scheme towards which such deposits were made.

9. This court has considered the rival submissions of the learned counsel and perused the materials and pleading placed on record. There appears to be some force in the contention put forth by the learned counsel for the petitioner that the Temple cannot be construed as an institution, since it is a juridic person and therefore, if at all there was any exclusion as averred in the counter affidavit, the same cannot be applied to the petitioner herein. Even assuming that the Temple is not an individual, having accepted the deposits and kept the amount for the scheme period and assuring deposit to carry 18% interest, it is not open to the respondents to turn around after the scheme period and direct the petitioner to take only the principal amount and not any interest on the said deposit.

10. Having held out of promise of the return of the principal amount with interest on the deposit, the respondents are estopped from denying the benefit as contemplated in the scheme, particularly, Kisan Vikas Patras (KVP) and National Saving Certificate schemes. This is clearly a case of applying the principle of both promissory and equitable estoppel against the respondents. The petitioner having invested huge amount with the respondent schemes and cannot be left high and high with the return of only the principal amount after a period of five and half years. By such conduct, the petitioner was successfully prevented from depositing the said amount in any other scheme available to them. Moreover, it has to be seen that having accepted and kept the deposit for more that five years, the respondents have benefited by unjust enrichment and that being the case, the denial of interest payable on the deposit is preposterous, arbitrary and cannot be countenanced both in law and facts.

11. In view of the above, this court has no hesitation in allowing the writ petition. The respondents are directed to pay interest as promised by them to the petitioner towards the deposit with reference to Kisan Vikas Patras (KVP) and National Saving Certificate schemes. The payment shall be made to the petitioner within a period of three months from the date of receipt of a copy of this order.

12. With the above direction, the writ petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

gsk
To

1. The Post Master General,
The Union of India,
Head Post Office, Mount Road,
Chennai 600 002.
2. The Senior Superintendent of Post Offices,
Tambaram Division, Tambaram.
Chennai 600 045.
3. The Post Master,
Poonamallee Post Office,
Poonamallee,
Chennai 600 056.
4. The Post Master,
Thiruverkadu Sub Post Office,
Thiruverkadu,
Chennai 600 077.

+2cc to Mr. KISHORE Advocate, S.R.No. 83630

+1cc to Mr. SUNITA KUMARI, CGSC Advocate, S.R.No. 83743

RJ(CO)
TR(02/01/2018)

W.P.No.43020 of 2006

WEB COPY