

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.03.2017

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.35372 of 2016

K.Palaniappan

... Petitioner

/versus/

- 1.The State of Tamil Nadu rep.by
Its Secretary to Government,
Cooperative, Food and Consumer
Protection Department,
Ft.St.George,
Chennai 600 009.
- 2.The Joint Registrar of Cooperative Societies,
Namakkal,
Namakkal District.
- 3.The Deputy Registrar of
Cooperative Societies,
Tiruchengode,
Namakkal District.
- 4.The Secretary,
Primary Agricultural Cooperative Credit
Society, No.S, 304 Vattoor,
Tiruchengode Taluk,
Namakkal District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders dated 16.09.2016 made in Na.Ka.No.3037/2016/PACB passed by the 2nd respondent confirming the order dated 07.09.2016 made in Na.Ka.No.3620/2016/PACB passed by the 3rd respondent, quash the same and consequently direct the respondents 2 to 4 to extend the benefit of Small and Marginal Farmers Loan Waiver Scheme, 2016 promulgated in G.O.Ms.No.59, dated 28.06.2016 issued by the 1st respondent to the petitioner.

For Petitioner :Mr.N.Manokaran

For Respondents:Mr.L.P.Shanmugasundaran,
Spl.G.P. For R1 to R4

O R D E R

The prayer in the writ petition is to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order, dated 16.09.2016, made in Na.Ka.No.3037/2016/PACB, passed by the 2nd respondent, confirming the order dated 07.09.2016 made in Na.Ka.No.3620/2016/PACB passed by the 3rd respondent, quash the same and consequently, direct the respondents 2 to 4 to extend the benefit of Small and Marginal Farmers Loan Waiver Scheme, 2016 promulgated in G.O.Ms.No.59, dated 28.06.2016, issued by the 1st respondent to the petitioner.

2. The case of the petitioner is that at the time of preparing the list of eligible farmers, the extent of the land owned and possessed by the petitioner was mentioned in the certificate issued by the Village Administrative Officer as 5.63 acres. On the basis of the said certificate, on 07.09.2016 the third respondent has rejected the petitioner's claim to avail the benefit of Small and Marginal Farmers Loan Waiver Scheme, 2016, as per the G.O.Ms.No.59, dated 28.06.2016. Aggrieved by the said order, the petitioner has filed an appeal before the second respondent. The second respondent has also rejected the petitioner's claim on 16.09.2016 confirming the order passed by the third respondent. Hence, the petitioner has filed the present writ petition for the aforesaid prayer.

3. Learned counsel appearing for the petitioner submitted that pursuant to the said order passed by the second respondent, the petitioner has obtained certificate from the Village Administrative Officer to show that the petitioner has owned and possessed the land to an extent of 4.87 acres, situated at Vattoor Gowdanpalayam, Vattoor Post, Tiruchengode Taluk, Namakkal District. Therefore, the petitioner is entitled to avail the loan benefit under the scheme of Small and Marginal Farmers Loan Waiver, as per G.O.Ms.No.59, dated 28.06.2016, issued by the 1st respondent.

4. However, this Court cannot accept the certificate issued by the Village Administrative Officer at this stage.

5. The learned counsel appearing for the petitioner fairly conceded that the petitioner will obtain the certificate from the Tahsildar Thiruchengode and the same will be produced before the concerned authority. Hence, an opportunity has to be granted to the petitioner to place the same before the authority. Hence, the impugned order passed by the 2nd respondent is liable to be set aside and the matter may be remitted back to the 2nd respondent to consider afresh.

6. On the contrary, the learned Special Government Pleader appearing for the respondents submitted that in para 7 of the counter affidavit filed by the fourth respondent, it is stated that the petitioner is a big farmer and he is holding 5.63 acres of agricultural land and he has produced a certificate issued by the Village Administrative Officer, Vattoor Village, Tiruchengode Taluk. Consequently, the same Village Administrative Officer has also issued another certificate, after issuing the aforesaid Government Order for availing loan benefit of Small and Marginal Farmers Loan Waiver Scheme, 2016. Therefore, this writ petition is liable to be dismissed.

7. In a similar circumstances, a Division Bench of this Court in [Secretary, Co-operation, Food and Consumer Protection Department, Secretariat, Chennai 600 009 and others v. R.Ghunasekaran reported in (2017) 1 MLJ 591] has held in paras 8 and 11, which reads thus:

"8. The documents referred to in the grounds of appeal show that the respondent has been availing loans for years 2012-2013, 2013-2014 and 2014-2015. While seeking loans for all these years, he had stated that he was holding land to the extent of 9.17 acres. The other documents substantiating the land holding of the respondent of 9 acres are the land holding certificate dated 11.05.2015 and that is being so recorded in the loan ledger pertaining to the respondent. The respondent also gave collateral security and executed a registered mortgage deed on

08.06.2012 for the land availed of in respect of 9 acres of land and the non-encumbrance certificate also pertaining to the 9 acres of land. It is not the case of the respondent that subsequently, there has been some other document by which there has been division of the 9 acres of land.

11. However, considering the predicament of the respondent as a farmer who may have suffering as a consequence of scanty rainfall and keeping in mind the limited plea made in the original writ petition of consideration of the representation dated 01.08.2016 the appellants/authorities may examine the case of the respondent whether some benefit can be extended in any manner under any policy inexistence, keeping in mind the factual situation."

8. Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel appearing for the petitioner that originally the Village Administrative Officer has issued the certificate in respect of land to an extent of 5.63 acres owned and possessed by the petitioner but, subsequently the said mistake has been occurred only due to inadvertence and therefore, the petitioner has obtained a fresh certificate from the Village Administrative Officer, Vattoor Village and the same has also been produced before the concerned authority, this Court cannot accept subsequent certificate issued by the Village Administrative Officer, since the said certificate has been issued, after issuing the Government Order in G.O.Ms.No.59, dated 28.06.2016 granting to avail loan benefit under the Scheme of Small and Marginal Farmers Waiver Loan. If the petitioner's claim is genuine and bona fide, the petitioner has to obtain certificate from the Tahsildar Thiruchengode and the same shall be produced before the concerned authority.

9. In the light of the decision of the Hon'ble Division Bench of this Court cited supra and having regard to the submissions made by the learned counsel appearing for the petitioner, I am inclined to set aside the impugned order passed by the 2nd respondent and remitted the matter back to the 2nd respondent to re-consider the petitioner's claim.

10. Accordingly, the writ petition is disposed of with a direction to the petitioner to produce certificate issued by the Tahsildar, Thiruchengode within a period of four weeks from the date of receipt of a copy of this Order. Thereafter, the second respondent is directed to consider and pass appropriate orders on merits and in accordance with law, after affording opportunity to the parties concerned, within a period of three months. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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4.The Secretary,
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+1cc to Mr.N.Manokaran, Advocate Sr.15792
+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.15976
+1cc to the Government Pleader Sr.16036

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