

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 20.06.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**AND****THE HONOURABLE MR.JUSTICE P.VELMURUGAN****W.A. [MD] .No.689 of 2017****and****C.M.P(MD) .No.5392 of 2017**

The Assistant Director,
National Horticulture Board,
Ministry of Agriculture,
Government of India, Module No.37,
Second Floor, SIDCO, Ready made Garments Complex,
Industrial Estate, Guindy,
Chennai 600 032.

: Appellant/1st Respondent

Vs.

1.R.Sudha

: Respondent1/Petitioner

2.The Chief Manager,
Bank of India, Sivakasi.

: Respondents2/2nd Respondent

PRAYER:Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 11.11.2016 made in W.P.(MD).No.16826 of 2013, on the file of this Court.

Prayer in WP(MD) . 16826/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the petitioners claim of subsidy in the letter ref. No. NHB/33ATN0005059/1588-89 dated 05/7-08-2013 of the Ist respondent quash the same and to direct the Ist respondent to pay the eligible subsidy amount of Rs.8 lakhs within a stipulated time.

For Appellant : Mr.M.Sundar.

For Respondent No.1 : Mr.A.Sivaji.

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.M.Sundar, learned counsel appearing for the appellant
and <https://hcservices.ecourts.gov.in/hcservices/> Mr.A.Sivaji, learned counsel appearing for the first respondent.



2. This Writ Appeal is directed against the order dated 11.11.2016, made in W.P.(MD).No.16826 of 2013.

3. The said Writ Petition was filed by the first respondent herein challenging the order passed by the appellant herein dated 05/07.08.2013, whereby the claim of the first respondent for subsidy was negatived.

4. The Writ Court, after taking note of the submissions made by the learned counsel on either side, did not go into the merits of the matter, but, was convinced that the order impugned in the Writ Petition having been passed in violation of principles of natural justice, the matter required to be interfered with and remanded to the appellant for fresh consideration.

5. The learned counsel appearing for the appellant would submit that in Paragraph No.7 of the order passed by the Writ Court, there is a factual mistake while recording the submissions of the learned counsel for the first respondent by stating that the term loan should be less than 35%, whereas it should be more than 35%.

6. In our considered view in Paragraph No.7 of the order, the Writ Court had only recorded the submissions made by the learned counsel for the first respondent, but, the Writ Court has not adjudicated into the same, but, was only convinced that the order required to be set aside, as the first respondent/writ petitioner was not afforded with sufficient opportunity before such an order was passed. Therefore, we are not inclined to interfere with the order and while confirming the order passed by the Writ Court, we make it clear that it is for the appellant to take a decision in the matter on merits and in accordance with law, after affording an opportunity of personal hearing to the first respondent/writ petitioner, by conducting an enquiry, as ordered by the Writ Court.

7. The Writ Appeal is dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

+1cc to M/S. R.SARAVANAN, Advocate, SR.No.61011.

JUDGMENT MADE IN
W.A.[MD].No.689 of 2017
20.06.2017