



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.09.2017

CORAM

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

WEB COPY

W.P. (MD) No.11568 of 2017

Rural Development Mission
having its office at 6-1-81 B Anna Nagar,
Pattiveeranpatti,
Dindigul District 624 211
rep. by its Chairman Shanthi

: Petitioner

-VS-

1. The Managing Director,
NABARD Finance Services Limited,
3072, 14th Cross,
K.R. Road, Banashankari 2nd Stage,
Bangalore-560 070. Karnataka State.

2. The Regional Manager,
NABARD Financial Services Limited,
No.38 SBO 1st Colony, 2nd Street,
Pommeni near Prasanna Kumaran Hospital,
Bypass Road, Madurai-625 014.

3. The District Manager,
NABARD Financial Service Limited,
No.42 A, Spencer Compound,
Behind Raja Rajeshwari Hospital,
Dindigul-624 001.

: Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the first respondent in his proceedings in Ref.No.NABFINS/320/RDM/2017-18 dated 08.06.2017 and quash the same and consequent direct the first respondent to issue suitable orders for empanelment of business correspondent for petitioner organization.

For Petitioner : Mr.Veera Kathiravan
Senior counsel
for M/s.Veera Associates

For Respondents : Mr.S.Sultan Sikkandar

**ORDER**

The rejection of the application of the petitioner for empanelment by the 1st respondent, dated 08.06.2017 is challenged in this writ petition.

2. According to the petitioner, he is a Non-Governmental Organization and it was formed with an object to help the poor and downtrodden. The petitioner has formed nearly 2000 Self-Help Groups (in short 'SHG') for the past 15 years and coordinating loan assistance to the Groups from the State Bank of India, Ayyampalayam Branch.

3. The petitioner would further state that the respondents are Apex Development Bank. The main object and functioning of the respondents is to provide and regulate credit and other facilities for the promotion and development of agriculture, small scale industries, cottage and village industries etc. The application of the petitioner, dated 05.02.2011 for empanelment of the business correspondence was kept pending without any progress for a long time. However, on 17.04.2014, the 3rd respondent, after scrutinizing the application, has recommended the petitioner organization for availing loan facilities from the respondents. Despite the same, no action was taken and hence, another application was sent on 02.06.2016. However, without providing opportunity of personal hearing, the application was rejected.

4. The respondents filed a counter stating that the respondents are the subsidiary of NABARD and they are responsible public limited company and not a charitable institution/organization. Though, the subordinates of the respondents have recommended, it is the duty of the higher officials to conduct further scrutiny/enquiry and submit their report for further hierarchical official.

5. It is further stated that in fact, the 2nd respondent herein has asked the petitioner organization to furnish the required documents on 22.11.2016 and also informed through telephone, but the petitioner organization deliberately failed to appear on the specified date. Further, on 14.12.2016, the petitioner organization visited the office of the respondents, but failed to provide necessary information/documents with regard to Self Help Groups and answer to various queries as posed by the 2nd respondent and hence, the application was kept in abeyance.

6. The respondents would further state that by a letter, dated 08.06.2017, the respondents communicated their reply to the petitioner organization stating that they are not in a position to consider the proposal of the petitioner's organization presently



with sufficient and satisfactory reasons. It is further stated that it was found that there are 1631 Self Help Groups as per the records of the petitioner, but unfortunately, they did not possess sufficient staffs to monitor these groups, in violation of the respondents empanelment policy.

WEB COPY

7. Heard Mr. Veera Kathiravan, learned Senior counsel for the respondent and Mr. S. Sultan Sikkandar, learned counsel for the respondents and perused the materials available on record.

8. The first respondent, by the impugned order, rejected the application of the petitioner for empanelment stating that the survey of SHGs promoted by the petitioner's organization and the quality of the groups was not found to be suitable for their credit linkage. Therefore, the order impugned in this writ petition is an attack on the main ground that it was passed in violation of the principles of natural justice and it is a cryptic order. Hence, the learned Senior counsel has requested this court to remand this case for fresh consideration.

9. The learned counsel for the respondents, by placing reliance on the decision of the Hon'ble Apex Court reported in **AIR 2008 SC 1339** [Oriental Bank of Commerce Vs. Sunder Lal Jain] and **(2009) 7 SCC 734** [Food Corporation of India and others vs. Ashis Kumar Ganguly and others] contended that the writ petition is not maintainable.

10. In the above decisions, the Hon'ble Apex Court has held that in order that a writ of mandamus may be issued, there must be a legal right with the party asking for the writ to compel the performance of statutory duty cast upon the authorities.

11. In the counter affidavit as well during the course of argument, the learned counsel for the respondents contended that the petitioner's application was rejected for the present and if they approach the authorities after complying with the defects, it would be considered as per the norms of the respondents.

12. A perusal of the impugned order would reveal that the respondents have given reason for rejecting the application of the petitioner. Further, the records would show that in the year 2016, the petitioner was asked to furnish relevant documents and in response to that, the petitioner has not furnished the documents. In view of the above facts, I am not able to countenance the contention of the petitioner.

13. In such view of the matter, I am of the considered opinion that there is no merit in the writ petition and accordingly, it is **dismissed**. However, the petitioner is at liberty to give a fresh representation to the respondents, after compliance of the defects



as set out in the impugned order. On such compliance, if the petitioner comes with a fresh application, that can be considered by the respondents as per norms. No costs.

WEB COPY

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

+ 1 cc TO M/S.Veera Associates , Advocate in SR No. 81003

er

AE/KK/SAR3/12.10.2017/4P/2C

W.P. (MD) No.11568 of 2017
22.09.2017