



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.02.2017
CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P(MD)No.3071 of 2017

and

W.M.P(MD)No.2450 of 2017

R.Baby

... Petitioner

vs.

- 1)The Joint Registrar (Co-Operative Society)
Thanjavur Zone,
Thanjavur.
- 2)The Deputy Registrar (Co-Operative Society)
Kumbakonam,
Thanjavur District.
- 3)The Secretary
Z-805 Koonancheri Primary Agricultural Co-Op.
Credit Society
Koonancheri, Thirumandangudi,
Papanasam Taluk,
Thanjavur District.
PIN 612 301
- 4)The Manager
Thiru Arooran Sugar Factory
Thirumandangudi, Thirumandangudi Post
Papanasam Taluk,
Thanjavur District-612 301

5)Smt.Seethalakshmi

... Respondents

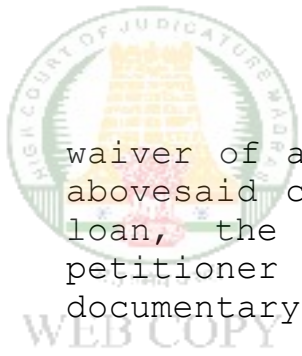
Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent's impugned order Na.Ka.No.5729/2016 **தொ.வெ.கூ.க.ச. நூள்**; dated 01.02.2017 and quash the same and direct the 1st respondent to direct the 3rd respondent to incorporate petitioner's name in the beneficiary list in waiver of loan as small farmer for the year 2015-2016 and to grant benefit by considering petitioner's representation dated 07.11.2016 within the period as stipulated by this Honourable Court.

**ORDER**

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent's impugned order dated 01.02.2017 and quash the same with a consequential direction to the 1st respondent to direct the 3rd respondent to incorporate the petitioner's name in the beneficiary list for waiver of loan as small farmer for the year 2015-2016 and to extend the benefit by considering her representation dated 07.11.2016 within a time frame to be fixed by this Court.

2.The petitioner submits that she is an agriculturist cultivating sugarcane crop and supplying the same to Sugarcane Factory. According to her, she is the owner of the land in S.No.331/1, Patta No.317 measuring 0.29.5 hectares. Initially, the said land belonged to her husband which was subsequently transferred to her son in Patta No.720. According to the petitioner, S.No.643 and Patta No.720 are one and the same. Though she availed loan for cultivation of the extent of 4 acres and 87 cents, due to the failure of monsoon, the Government have issued G.O(Ms)No.50, Cooperation, Food and Consumer Protection (CC1) Department, dated 23.05.2016 and G.O(Ms)No.59, Cooperation, Food and Consumer Protection (CC1) Department, dated 28.06.2016, for waiver of loan and that the petitioner is eligible for the said waiver. Unfortunately, the petitioner's name was not found in the beneficiary list and hence, she preferred appeal which was rejected. Thereafter, the petitioner approached this Court by filing W.P(MD)No.22425 of 2016 contending that she was not given opportunity of being heard and hence, this Court by order dated 23.11.2016, directed the respondents to give opportunity to the petitioner and pass a detailed order. Accordingly, a detailed order was passed on 01.02.2017, which is the subject matter of the present writ petition.

3.Before passing the impugned order, a detailed enquiry has been conducted wherein, it has been found that the petitioner has applied for loan initially for the extent of 3.19 acres and submitted a certificate dated 06.01.2015 obtained from the Village Administrative Officer with regard to the said extent of land and based on the said certificate, loan was sanctioned. Thereafter, to the extent of 2.7 acres, another loan has been obtained by the petitioner by submitting a certificate dated 13.03.2015 obtained from the Village Administrative Officer with regard to the said extent of land. The first loan was availed on 27.03.2015 and the second loan was availed on 07.05.2015. The petitioner vehemently contended that there is an error in the total extent of the area which was only 4.9 acres. As per the abovesaid Government Orders, persons having total land size ranging from 2.5 acres to 5.00 acres are small farmers and persons having total land size upto 2.5 acres are marginal farmers and both the two categories are entitled to



waiver of agricultural loan. Since the petitioner falls under the abovesaid classification of farmers who are entitled to waiver of loan, the benefits of G.Os have got to be extended to the petitioner and thus the order impugned is contrary to the documentary evidence on record.

4.The 5th respondent, the then Village Administrative Officer who has issued the certificates, has been examined in the enquiry. She has deposed that the petitioner has availed loan based on forged documents that is, the document issued by her/Village Administrative Officer is said to have been forged. It has been categorically stated in the abovesaid Government Orders that loans availed by producing duplicate or unauthenticated documents etc., shall be strictly excluded from the list. On scrutiny of the documents and after hearing the Village Administrative Officer, the impugned order has been passed stating that the petitioner is having more than 5 acres of land and hence, she is not entitled to waiver of agricultural loan. It is also the categorical finding that forged document has been produced by the petitioner.

5.The Government is extending waiver of agricultural loan to the small and marginal farmers, so that they can eke-out their livelihood by continuing agriculture as avocation. It is very unfortunate that person who is having excess land is trying to misuse the Government orders and try to mention the total number of acres as less than 5 so as to avail the Government benefits which are mainly meant for small and marginal farmers. If the contention of the petitioner is accepted that the benefit of waiver shall be extended to the farmers who are having more than 5 acres, the farmers who are falling in the two categories namely, small and marginal mentioned supra, would be deprived of the benefit of waiver. As far as the small and marginal farmers are concerned, it is survival and for a farmer who is having more than 5 acres, it is not a question of survival. Even assuming it can be termed as survival for that person, the petitioner cannot by dubious method get the benefit which is not available under the G.Os. The act of the petitioner is condemnable. Though it is a fit case for imposing cost of not less than Rs.50,000/- taking note of the fact that the petitioner is also one of the agriculturists, this Court is refrained from imposing cost.

With the above observation, this Writ Petition is dismissed. No costs. Consequently, W.M.P(MD)No.2450 of 2017 is closed.

Sd/-

Assistant Registrar(CS-III)



To

1) The Joint Registrar (Co-Operative Society)
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Thanjavur.

2) The Deputy Registrar (Co-Operative Society)
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3) The Secretary
Z-805 Koonancheri Primary Agricultural Co-Op.
Credit Society
Koonancheri, Thirumandangudi,
Papanasam Taluk,
Thanjavur District.
PIN 612 301.

+1 cc to MR.A.HAJA MOHIDEEN, ADVOCATE, SR NO:9930

+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO:10082

nbi

SVA/MR/09.03.2017/4P/6C

W.P (MD) No.3071 of 2017
22.02.2017