

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 09.04.2018**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.No.1243 of 2006**

Mr.U.Sivakumar

... Petitioner

Vs.

1.The Commissioner of Agriculture,  
Chepauk, Chennai – 5.

2.The Joint Director of Agriculture,  
Thiruvallur.

3.The Assistant Director of  
Seed Certificate, Alandur,  
Chennai-16.

... Respondents

**Prayer:**

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the Assistant Director of Seed Certificate the 3<sup>rd</sup> respondent herein made in reference No.Se.Mu.ANo.A/3354/2005 dated 5.1.2006, quash the order and forbear the respondents herein from in any manner recovering penal interest from the salary of the petitioner.

For Petitioners : Ms.G.Sridevi

For Respondents : Mr.K.Ravikumar

Additional Government Pleader

**ORDER**

The petitioner has filed this writ petition challenging the penal interest imposed by the third respondent.

2.The case of the petitioner is that he is a Seed Certifying Officer working in the third respondent office. He applied for a car loan on 19.12.1997. A sum of Rs.90,000/- was sanctioned to the petitioner on 10.08.1999. Though the application was made as early as on 19.12.1997, the third respondent sanctioned the loan amount only after two years i.e., on 10.08.1999. Since the third respondent delayed in processing the loan application, the earlier proposal for purchasing a second hand Ambassador car has not succeeded. Due to the delay in loan, the owner of the Ambassador car sold the same to some other party. Thereafter, the loan was sanctioned.

3.On 14.09.1999 the petitioner made a representation to the first respondent seeking one month time to purchase a Maruthi 800 (199 Model) car instead of Ambassador car, however, vide proceedings dated 23.09.1999, the petitioner was directed to buy the vehicle immediately. Thereafter, the petitioner made another representation stating that instead of Ambassador car, the petitioner has purchased

Maruthi 800 Car from one Vaidyanathan for a sum of Rs.92,000/-. In order to prove the purchase of Maruthi car, he produced RC Book and Insurance Certificate. However, the respondent passed the impugned order on 05.01.2006 ordering recovery of penal interest from the salary of the petitioner.

4.The learned counsel appearing for the petitioner would submit that the petitioner applied for loan in the year 1997 however, loan was sanctioned only in the year 1999. Hence instead of purchasing Ambassador car the petitioner has purchased Maruthi car and there is no revenue loss caused to the respondents by purchasing another car. However, without considering that the fact that there is no revenue loss, the third respondent has passed the impugned order. The impugned order is un-sustainable in law as there is no fault on the part of the petitioner. Though the petitioner initially intended to buy a second hand Ambassador car, he purchased the Maruthi car only due to the delay in sanctioning of loan for which, the petitioner also made representation to the Authorities. However, the respondents did not take any action on the representation and without considering the said representation and the delay in sanctioning the loan amount, the third respondent has passed the impugned order. Accordingly, he prayed for allowing the writ petition.

5.The Additional Government Pleader would submit that the respondent sanctioned the loan amount for purchasing the Ambassador car and without getting sanction from the respondents to buy a Maruthi car, the petitioner has purchased the same. Hence, the passing of the impugned order by the third respondent is sustainable in law. Accordingly, he prayed for dismissal of the writ petition.

6.I have heard the rival submissions made by the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader.

7.Admittedly, the petitioner applied for loan in the year 1997 however, loan was sanctioned only in the year 1999 and there is no allegation against the petitioner for non payment of dues to the respondent. The impugned order came to be passed only on the ground of delay in submitting the documents. Perusal of records clearly establish that due to the non sanction of loan within a short period, the owner of the Ambassador car sold the same to third party. Hence, the petitioner purchased the Maruthi car from another person and the same was also informed to the respondents by way of representation dated 06.09.2000. However, without considering the

above facts, the third respondent has passed the impugned order imposing penal interest, which according to this Court is un-sustainable in law.

8.In view of the above, the impugned order dated 05.01.2006 passed by the third respondent is quashed and the writ petition is allowed. No costs.

09.04.2018

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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3.The Assistant Director of  
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**M.DHANDAPANI,J.**  
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