

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

WRIT PETITION No.12708 of 2009

ORDER:

The petitioner seeks writ of *Mandamus* directing respondents to extend the benefit of Agricultural Debt Waiver and Debt Relief Scheme-2008 to him by treating him as a small farmer and consequently set aside the letters dated 28.5.2009 and 19.6.2009 of respondents, as illegal, arbitrary and in violation of Articles 14, 19 and 21 of the Constitution of India.

2. The petitioner's case is that he is a small farmer and having agricultural lands less than 5 acres. He availed gold loan (agriculture) of Rs. 90,000/- from respondent No.1 on 26.12.2005 to meet the cultivation expenses of crops. The petitioner has pledged more than 200 grams of gold with the Bank and the loan amount was sanctioned to him on 26.12.2005. Due to continuous crops failure, he could not repay the loan amount. With great difficulty, he could only pay an amount of Rs. 27,500/-, on 29.9.2008 to respondent No.1.

a) Further case of the petitioner is that Government of India have published a scheme, namely, Agricultural Debt Waiver and Debt Relief Scheme- 2008 (for short, 'the Scheme-2008') giving benefit of waiver of long pending agricultural loans in full to small and marginal farmers. The Scheme-2008 was issued to provide monetary relief, in respect of over due bank loans, to the small and marginal farmers. The petitioner was under the fond hope and belief that respondent No.1 would extend the benefit of

the Scheme-2008 to him also and waive the loan amount, but on receiving reminder from the Bank to pay the loan amount, he has realized that loan amount was not waived under the Scheme-2008. Immediately, he made a representation to the respondents on 1.10.2008 specifying that he is a small farmer, having less than 5 acres of agricultural land and he would fall within the ambit of the Scheme-2008. Respondents have not responded to his representation. By separate communication, dated 22.10.2008, respondents rejected the case of the petitioner on the ground that as per their records, the petitioner was in possession of the land exceeding 5 acres and thereby, classified him as 'other farmer' as per the Scheme-2008. It was stated that the petitioner was eligible for relief of 25% of loan outstanding under OTS (one time settlement). The petitioner was under the bona fide belief and hope that after receiving his objections, the Bank would have referred the matter to revenue authorities to ascertain the factual position but such exercise was not undertaken. The petitioner submitted a representation, dated 8.11.2008 to the Ombudsman-Banking, by way of a complaint No. 200809001302. However, the said representation was closed rejecting his request without hearing him. Thereafter, respondent No.1 has issued a notice, dated 28.5.2009 to the petitioner stating that unless he paid the loan amount within 30 days from the date of receipt of notice, the Bank would be forced to sell the jewels in public action. Respondent No.1 also communicated a letter dated 19.6.2009 directing the petitioner to pay the entire loan amount before 30.6.2009, otherwise, the petitioner would

not be eligible for the benefit under the said Scheme-2008. Hence, the writ petition.

3. Though notices were served on respondents, but there is no representation on their behalf. Hence, heard learned counsel for petitioner.

4. It is the submission of learned counsel for the petitioner that the petitioner is a small farmer, having less than five acres of land and therefore, he would squarely fall within the ambit of the Scheme-2008. However, the authorities, without properly considering his case, rejected his claim. The authorities have not verified the revenue records to know whether the petitioner is a small farmer and to what extent of land he is in possession, as per revenue records and thus, the representation of the petitioner to consider his case was not properly appreciated.

5. The respondents have not appeared before the Court to put forth their stand.

6. As can be seen from the material papers produced by the petitioner, vide letter dated 1.10.2008, the petitioner made a representation to respondent No.1 stating that he comes under the category of small farmer and therefore, he is entitled for the benefit of waiver of long pending agricultural loan by virtue of the Scheme-2008 envisaged by Government of India. He further stated in his letter that at the time of scrutiny and sanction of loan amount, the bank authorities have to ascertain the eligibility particulars of the petitioner, under the Scheme-2008 but they did not call for the land holding particulars of the

petitioner and thereby, the Bank has taken unilateral decision rejecting his claim for getting the benefit under the Scheme-2008. He has requested to verify land records and pass necessary orders. To this letter, respondent No.1 has issued a reply dated 20.10.2008, wherein it is mentioned that his letter was referred to the Grievances Redressal Officer and it was observed that as per branch records, the petitioner was in possession of the land exceeding 5 acres as on the date of availing the loan and he was categorized as "Other Farmer" in accordance with guidelines of the Scheme-2008 and the petitioner would be eligible for debt relief of 25% of loan outstanding under OTS, but not eligible for complete waiver of entire loan outstanding as claimed by the petitioner.

7. The material papers would further show that the petitioner lodged a complaint with Ombudsman-Banking, Reserve Bank of India, Saifabad, Hyderabad against the communication of respondent No.1, dated 20-10-2008. The said authority, by order dated 16.01.2008, confirmed the particulars mentioned in letter dated 20.10.2008 of respondent No.1 and held that there was no deficiency of service observed on the part of respondent No.1.

8. Thus, as can be seen from the record, while the petitioner claims that he is a small farmer, respondent No.1- Bank refuted the same stating that as per their records, he is owning more than 5 acres of land and therefore, he would not fall within the ambit of the Scheme-2008. It is not known what are the records that are available with respondent No.1-Bank, which show that

the petitioner owns more than 5 acres of land and thereby, keeping him out of the purview of the Scheme-2008.

9. Therefore, this Court is of the considered view that an opportunity should be given to the petitioner to make a fresh representation to respondent No.1 and respondent No.1 shall pass an order giving cogent reasons by showing particulars of the records available with it and mention whether or not the petitioner comes under the beneficial Scheme- 2008.

10. Accordingly, this writ petition is disposed of giving liberty to the petitioner to make a fresh representation to respondent No.1 within three weeks from the date of this order, in which case, respondent No.1 shall pass a reasoned order informing whether or not the petitioner comes under the Agricultural Debt Waiver and Debt Relief Scheme-2008 and also mention the particulars of the records which respondent No.1-authority perused to come to such conclusion, within four weeks from the date of receipt of the representation from the petitioner. No costs.

As a sequel, pending miscellaneous petitions, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Date: 26.09.2018

Note: Issue CC by Monday
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