



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.12.2019**

CORAM:

WEB COPY

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P(MD)NO.22203 OF 2019

and

W.M.P(MD)No.18982 of 2019

Murugesan

:Petitioner

.VS.

- 1.The Principal Secretary,
Government of Tamil Nadu,
Cooperation, Food and Consumer Protection(CCI)Department,
Secretariat,
Chennnai-9.
- 2.The Registrar,
Tamil Nadu Cooperative Societies,
Office of the Registrar of Cooperative Societies,
Chennai.
- 3.The Joint Registrar,
District Cooperative Societies,
Office of the Joint Registrar of Cooperative Societies,
Thoothukudi,
Thoothukudi District.
- 4.The Deputy Registrar,
District Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Thoothukudi,
Thoothukudi District.
- 5.The President,
EE221, Korampallam Primary Agricultural Cooperative
Credit Societies,
Korampallam,
Thoothukudi,
Thoothukudi District.
- 6.The Village Administrative Officer,
Korampallam Part-2,
Thoothukudi District



7.The Revenue Inspector,
Pudukkottai,
Thoothukudi District.

8.The Tahsildar,
Thoothukudi District.

(R6 to R8 are suo-motu impleaded vide order of this
Court made in W.P(MD)No.22203 of 2019, dated 21.10.2019)

: Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the fourth respondent's impugned order in Na.Ka.No.569/2019, Tho.Va, dated 25.2.2019 and to quash the same as illegal and arbitrary and consequently to direct the respondents to waive the Petitioner's jewels loan bearing No.AJL 476 and release his jewels weighing 149.400 grms based on the G.O.Ms.No.50, dated 23.5.2016 issued by the first respondent within the time stipulated by this Court.

For Petitioner :Mr.A.D.Ganeshamoorthi

For Respondents :Mrs.J.Padmavathi Devi
1 to 4 Special Govt.Pleader

For Respondent-5 :Mr.D.Shanmugaraja
Sethupathi

O R D E R

The Writ Petitioner is a poor farmer, who is depending on his agricultural income for his livelihood and he is a member of the fifth respondent/Society. He has cultivated plantain crop in S.Nos. 152A/1A, 151/6C, 151/6G, 195/1G1B, 195/1G2, 200/4B situated in Mullakadu village and Korampallam Village respectively.

2.The Government had issued G.O.Ms.No.50, dated 23.5.2016 stating that the Outstanding Crop Loan, Medium Term Loan and Long Term Loan issued to the small and marginal farmers by the Cooperative Societies in Tamil Nadu as on 31.3.2016 are waived. The second respondent in this regard had issued guidelines for waiver of crop loan. The guidelines were issued as per G.O.Ms.No.59, dated 28.6.2016. As per the said Government Order, the fifth respondent-Society has to prepare the list of farmers who are eligible and the same has to be placed before the Board of Directors for approval. After getting the approval, the fifth respondent should have sent the list to the third respondent which will be verified by the Field Officer of the Cooperative Society and as a result of which, the final list will be prepared. It is claimed by the



Petitioner that he is also eligible for the benefit as per G.O.Ms.No.50, dated 23.5.2016. However, he has been denied the benefit of the small or marginal farmers Certificate. Earlier, the Petitioner had obtained loan by pledging his jewellery and they were brought for public auction, as there was a default. Aggrieved by the same, the Petitioner and others have filed W.P(MD)No.2696 of 2018 seeking a direction to waive the loan obtained by him and others based on G.O.Ms.No.50. It was dismissed on 5.3.2019 with liberty to challenge the impugned order passed by the fourth respondent. The present impugned order is passed by the fourth respondent stating that the Petitioner is not eligible for waiver of the loan. Further, in the loan ledger, it has been entered as hybrid plantain instead of ordinary plantain. Further observation is that the month of July is not congenial for the cultivation of hybrid plantain crop. It is also stated that the Petitioner is owning more than five acres which would disentitle him for the loan waiver. Aggrieved by the said order, the Petitioner has come up with this Writ Petition.

3.The Writ Petition was resisted by the respondents and the fourth respondent has filed a counter affidavit wherein it is specifically stated that the petitioner has been cultivating 8 acres and 89 cents. Therefore, the extent of the land cultivated by the Petitioner is over and above the upper limit and hence he is not eligible for the loan waiver as contemplated under G.O.Ms.No.50, dated 23.5.2016 and G.O.Ms.No.59, dated 28.6.2016.

4.The question that arose for consideration in this Writ Petition is whether the Petitioner is entitled for the waiver of loan as contemplated under G.O.Ms.No.50, dated 23.5.2016 and G.O.Ms.No.59, dated 28.6.2016?

5.The learned Special Government Pleader appearing for the respondents 1 to 4 produced a photo copy of the loan application form of the Petitioner, signed by the Petitioner. On a perusal of the application form, it is seen that there is interpolation of the numbers in the column where Serial Number and extent has to be filled up. Admittedly, the said column were not filled by the Petitioner, as he has only signed the application form. Having verified the fact that the Petitioner has got less than five acres of land cultivable and the extent of land is not more than the upper limit, it will not be fair on the part of the respondents to say that the Petitioner is not eligible for the loan waiver stating that he is cultivating more than five acres.

6.The learned counsel for the fifth respondent invited the attention of this Court to the letter in M.S.108, dated 1.9.2016, which is a clarification letter issued by the Principal Secretary to the Government, Government of Tamil Nadu, which reads as follows:

'In the circumstances reported by the Registrar of

<https://hcservices.courtserviceindia.org/> Societies in the reference third cited, the



following clarification to the paragraph 3 of the guidelines is issued to the Government Order second cited:-

"If the cultivation is done by the lease(oral or written) and crop loan is availed by lessee, waiver can be applicable to such lessee and not to land owner and this position is agreed subject to the Small farmers/Marginal farmers norms in terms of acre cultivated"

7. Based on the said clarification, it is contended that even presuming that the Petitioner has owned 4.90 acres, but, when he is cultivating a total extent of 8.89 acres, he is not entitled to the benefit of loan waiver. The learned counsel also invited the attention of this Court to the Inspection Report filed under Section 82 of the Tamil Nadu Co-operative Societies Act conducted by the Field Officer. On a perusal of the same, it reveals that the Petitioner has been arrayed as S.No.22. The present dispute is in respect of AJL 476, dated 29.7.2015. In the Inspection Report which was in respect of the above AJL 476, dated 31.7.2015 and the loan disbursed was Rs.2,30,000/-, based on the land holdings of the Petitioner, which are as follows:

147 C/2	0.890	
142/1A25	0.220	
142/1C	0.480	
142/2	0.395	
	1.985	Acre 4.90

8. The total extent of 1.985 = 4.90 acres tally the same. There is also a reference with respect to AJL 355/08 which was issued on 8.8.2014 wherein the Petitioner had borrowed Rs.2,10,000/- which is also discharged. Under the said AJL 355/08, dated 8.8.2014, the land particulars are furnished, which are as follows:

Mullakadu 151/6C	0.330	
6C 1	0.060	
152/A1A	0.290	
11/9	0.200	
192/A25	0.200	
143/1C	0.480	
148/2	0.395	
147/C2	0.890	
138/9A2	0.180	
147/C/3	0.575	
	3.600	Acre 8.89

9. Based on this report, it is was recommended that the Petitioner is not entitled for waiver of the loan. The reasons are there were over-writing in the application form and in the waiver application form, it was mentioned as plantain crop and in the loan eligible column, it is mentioned as hybrid plantain crop. Further



it is mentioned that the month of July is not suitable for cultivating the hybrid plantain crop, besides, it is also mentioned that the Petitioner has possessed more than five acres of cultivable land and as per the Government Orders referred to above, the Petitioner is not entitled to loan waiver as sought for by him.

WEB COPY

10.It is unfortunate that the impugned order has been passed without adverting to the Inspection Report in a proper perspective and has committed error in rejecting the claim of the Petitioner. When the present dispute is with respect to the closure of AJL 476, the authorities have taken note of the lands listed in AJL 355 which has already been discharged by the loanee/Petitioner herein. Therefore, even as per the Inspection Report, the Petitioner is cultivating only 4.90 acres, which comes well within the norms prescribed under G.O.Ms.No.50, dated 23.5.2016 and G.O.Ms.No.59, dated 28.6.2016.

11.In the light of the above discussion, the impugned order is to be set aside, as the same is passed without application of mind. Inspection Report is very specific that when the land details which are given will come within the norms prescribed by the authorities, there is no impediment for the authorities concerned in granting the benefit of waiver of loan as sought for by the Petitioner.

12.In the result, this Writ Petition is allowed and the impugned order passed by the fourth respondent, dated 25.2.2019 is set aside and the respondents are directed to waive the jewel loan for the Jewel Loan bearing NO.AJL 476 and release the jewels of the Petitioner based on G.O.Ms.No.50, dated 23.5.2016. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

vsn
To

1.The Principal Secretary,
Government of Tamil Nadu,
Cooperation, Food and Consumer Protection(CCI)Department,
Secretariat,
Chennnai-9.



- 2.The Registrar,
Tamil Nadu Cooperative Societies,
Office of the Registrar of Cooperative Societies,
Chennai.
- 3.The Joint Registrar,
District Cooperative Societies,
Office of the Joint Registrar of Cooperative Societies,
Thoothukudi,
Thoothukudi District.
- 4.The Deputy Registrar,
District Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Thoothukudi,
Thoothukudi District.
- 5.The President,
EE221, Korampallam Primary Agricultural Cooperative
Credit Societies,
Korampallam,
Thoothukudi,
Thoothukudi District.
- 6.The Village Administrative Officer,
Korampallam Part-2,
Thoothukudi District
- 7.The Revenue Inspector,
Pudukkottai,
Thoothukudi District.
- 8.The Tahsildar,
Thoothukudi District.

+1 CC to M/s.A.D.GANESHA MOORTHY, Advocate (SR-104531[F] dated 11/12/2019)

+1 CC to M/s.SPL.GP (SR-104648[F] dated 12/12/2019)

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-104854[F] dated 13/12/2019)

ORDER MADE IN
W.P (MD) NO.22203 OF 2019
and
W.M.P (MD) No.18982 of 2019
11.12.2019

KK/SAR/02.01.2020/6P-12C/