IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.02.2020

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.25910 of 2018

V.Rajendran .. Petitioner

..Vs..

1.The District Collector,
Cuddalore Taluk, Cuddalore District.

2.The District Manager,
TAHDCO, Cuddalore District.

3.The Branch Manager,
Bank of India, B Odaiyur Branch,
Chidambaram Taluk, Cuddalore District.

4.The Zonal Manager,
Bank of India Chennai Zonal Office,
New No.30, Old No.17,
Errabalu Street, Chennai 1. ..Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 3 and 4 to disburse the loan which is already sanctioned to the petitioner based on the approved proposal by virtue of G.O.Ms.No.61 dated 06.10.2017 Adi Dravidar and Tribal Welfare (CUThi2) Department, within a time frame that may be fixed by this court.

For Petitioner : Mr.P.T.John Suresh
for M/s.S.Arokia Maniraj

For Respondents: Mr. G.Rajesh
Government Advocate for R1

Mr.Jayaprakash Narayanan
Additional Government Pleader for R2

Ms.Shilpa for
Mr.F.B.Benjamin George for R3 &R4

ORDER

The petitioner has filed the present Writ Petition in the nature of a Mandamus directing the third and fourth respondents viz. the Branch Manager, Bank of India, B Odaiyur Branch, Chidambaram Taluk, Cuddalore District and The Zonal Manager, Bank of India Chennai Zonal Office, New No.30, Old No.17, Errabalu Street, Chennai 1, to disburse the loan which had already been sanctioned to the petitioner based on the approved proposal by virtue of G.O.Ms.No. 61 dated 06.10.2017, Adi Dravidar and Tribal Welfare (CUTHI2) Department.

2. In the affidavit filed by the petitioner, it had been stated that he belongs to Schedule Caste Community and hails from poor family. He claims that he has experience in concrete mixer business. He had been doing the same for 25 years. He had further stated that in anticipation of obtaining loan to develop the business, he underwent EDP programme conducted by TAHDCO from 22.12.2016 to 28.12.2016. After gaining experience, he applied for loan through TAHDCO under the Entrepreneur Development Programme on 22.05.2015 and an interview was conducted on 19.08.2015. His proposal was accepted and the lead bank of the District viz., the Indian Bank accepted and approved the project. It is stated that since the petitioner had complied with all formalities, the loan was also sanctioned by the third and fourth respondents for a sum of Rs.3,26,130/-. Out of this, a sum of Rs.1,50,022/- was granted as subsidy. This subsidy amount was referred to Bank of India, B Odaiyur Branch, which is the third respondent herein. He also made a fixed deposit of Rs.50,000/- in Bank of India on 29.09.2015. The officials of the respondent Bank inspected the place of business. The petitioner was not given the loan amount and it is claimed that the third and fourth respondents were delaying the entire issue without disbursing the loan. Thereafter, he made a representation to the first respondent, viz. The District Collector, Cuddalore Taluk, Cuddalore on 26.12.2016. He also issued an Advocate notice. It is under these circumstances that he had approached this Court by filing this Writ of Mandamus.

3. A counter has been filed on behalf of the third and fourth respondents. In the counter, it had been stated that the loan application of the petitioner which he had submitted to the second respondent under the TAHDCO Scheme for purchase of concrete mixer was registered by the second respondent and with its recommendations was forwarded to the third respondent on 30.09.2015 with request to forward the application for subsidy

under the Scheme. It was stated that the application was considered by the third and fourth respondents and provisional sanction was accorded on 31.10.2015. It was also stated that the necessary form viz. Form No.III, requesting to sanction and release of the subsidy amount of Rs.1,50,522/- under the Scheme was also submitted to the second respondent on 30.10.2015. The second respondent also passed an order on 21.09.2016 for the release of subsidy amount of Rs.1,50,522/-. However, the subsidy amount had not been received. Thereafter, it had been further stated in the counter that the third respondent found that the petitioner did not possess any prior work experience and that the business was not financially viable. It was stated that the petitioner did not have proper repayment capacity. It was also stated that similar loans sanctioned by the third respondent to various other persons for the same business in the nearby areas were either turned as not performing assets or out of order. Therefore, the third respondent returned the application submitted by the petitioner through TAHDCO on 09.01.2017. The petitioner had lodged complaint with the Banking Ombudsman and also with the National Commission for Schedule Caste and had also lodged a criminal complaint with the jurisdictional police. It is stated that the Writ Petition should be dismissed.

4. Heard Mr.R.T.John Suresh, learned counsel appearing for M/s.S.Arokia Maniraj, for the petitioner, Mr. G.Rajesh, Government Advocate appearing for the first respondent, Mr.Jayaprakash Narayanan, learned Additional Government Pleader appearing for the second respondent and Ms.Shilpa, learned counsel appearing for the respondents 3 and 4.

5. This is a case which reflects the retrograde bureaucratic attitude of the Bank officials. The purpose of any banking industry is, not only to lend money to the people and to accept deposits but also to encourage business. In this case, the petitioner who belongs to the Schedule Caste Community had applied for a loan. This is an admitted fact. The further admitted fact was that the said application was registered by the second respondent. It is also admitted that the second respondent had given a recommendation favourably for sanction of loan. The further admitted fact is that the said application was also considered by the third and fourth respondents and it is also admitted by the third respondent that they had also granted provisional sanction on 31.10.2015. It is also admitted that the third respondent had submitted Form III for release of subsidy amount of Rs.1,50,522/- to the second respondent.

6. It is further admitted that the second respondent also passed an order on 21.09.2016 for release of the subsidy amount

of Rs.1,50,522/-. Having proceeded to such extent, wisdom or more precisely lack of wisdom suddenly dawned on the third respondent, who had decided to invest reasons to reject the loan. The only reason given is that the third respondent had advanced loan to various persons in the very same area where the petitioner resides, which loans had turned NPA and therefore, they assumed the petitioner would also not repay the amount and therefore, they rejected the loan.

7. Needless to point out that the said reason is abused. Each applicant will have to be assessed on his or her own individual capacity and not on the basis of the region where they stay. The loan cannot be denied merely because a person is living in a particular place. Article 15 of the Constitution of India specifically provides that there cannot be any prohibition or discrimination on the ground of place of birth or on the ground of caste. The petitioner belongs to Schedule Caste Community. Merely because he belongs to a region where several people had obtained loan and merely because those unnamed people had not repaid the loans, the petitioner’s application cannot be rejected by the respondents. It has been very specifically stated by the petitioner in his affidavit that he has experience in the said business. It is not known what qualification or what institute the petitioner should study in to get experience as concrete mixer or to be recognised as a qualified concrete mixer. Therefore, the reasons advance for rejection of the loan are in turn rejected by this Court.

8. The learned counsel for the petitioner has also placed reliance on G.O.Ms.No.61, issued by the Adi Dravidar and Tribal Welfare (CUTHI2) Department dated 06.10.2017, wherein, it had been stated that the Government had introduced several schemes for the upliftment of the Schedule Caste and Schedule Tribe people and it had also been stated that such loan should be extended for self-employment. The rejection of the loan without reference to any of the schemes of the Government or the Government order is regrettable.

9. In view of these reasons, I am unable to comprehend how the petitioner can be discriminated against merely because he came from a particular place and merely because the respondents assumed that he would not repay the amount. It is to be noted that the petitioner also deposited a sum of Rs.50,000/- with the third respondent Bank as fixed deposit and the amount is still lying with the third respondent.

10. In view of these facts, the Writ Petition is allowed with a direction to the third and fourth respondents to

forthwith sanction the loan to the petitioner on proper assessment, on obtaining proper security and on recognising the fact that he had deposited a sum of Rs.50,000/- as fixed deposit and also with the noble cause for upliftment of Schedule Caste and Schedule Tribe citizens of this country and it is hoped that the officials of the third respondent Bank may not discriminate the petitioner or anybody else like him merely because he hails from a particular region. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

jv

To

1.The District Collector,
Cuddalore Taluk, Cuddalore District.

2.The District Manager,
TAHDCO, Cuddalore District.

3.The Branch Manager,
Bank of India, B Odaiyur Branch,
Chidambaram Taluk, Cuddalore District.

4.The Zonal Manager,
Bank of India Chennai Zonal Office,
New No.30, Old No.17,
Errabalu Street, Chennai 1.

+1cc to Mr.S.Arokia Maniraj, Advocate SR.10195
+1cc to the Government Pleader SR.10889

W.P.No.25910 of 2018

PA(CO)
CB(10/03/2020)