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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07.04.2021

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 7984 of 2018

and WMP.No. 9944 & 9945 of 2018

O.B. Karthikeyan

...Petitioner

Vs

- 1 The Registrar of Cooperative Societies E.V.R.Periyar Road Kilpauk Chennai-10
- 2 The Joint Registrar of Cooperative Societies Erode Region Karungalpalayam Erode- 638003
- 3 The Joint Registrar of Cooperative Societies Salem Region Salem District
- 4 The Deputy Registrar of Cooperative Societies Erode Circle Erode Erode District
- 5 The President Modakkurichi Primary Agricultural Cooperative Credit Society Ltd No.AA 226 Modakurichi- 638104 Erode District

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 3rd respondent in his proceedings No.8201/ 2017 Ma.Va dated 21.12.2017 and quash the same and consequently directing the respondents to give benefit of the waiver of the loan interest from date of issuing loan to the petitioner by taking note of the 4th respondents communication in his proceedings Na.Ka.4236/ 2012/ Tho.Vae. Sa dated 14.11.2017



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For Petitioner : Mr.S.Karthikeyan
for M/s.C.Prakasam

For Respondents : Ms.T.Girija, AGP - R1 to R4
Mr.L.P.Shanmugasundaram - R5

O R D E R

The prayer sought for in the Writ Petition is to call for the entire records relating to the impugned order passed by the 3rd respondent in his proceedings No.8201/ 2017 Ma.Va dated 21.12.2017 and quash the same and consequently directing the respondents to give benefit of the waiver of the loan interest from date of issuing loan to the petitioner by taking note of the 4th respondents communication in his proceedings Na.Ka.4236/ 2012/ Tho.Vae. Sa dated 14.11.2017

Brief facts of the case :

2.1 The writ petitioner is the sole proprietor of Saraswathi Rice Mill, which is situated at Modakurichi Village for catering the need of agriculturists to hull the paddy into rice on rate basis for the rice bags. The writ petitioner has availed a loan of rupees ten lakhs (Rs.10,00,000/-) from the 5th respondent society on 08.08.2000. He repaid the loan amount till 2003 and due to failure of rain, the paddy cultivation was considerably reduced, hence he could not repay the loan, thereafter. While that being so, the writ petitioner received a notice dated 17.08.2009 from the 5th respondent stating that if the petitioner settles the loan amount at the rate of interest at 6% with effect from 01.04.2003 as per Government Order. The writ petitioner has to pay a sum of Rs.11,70,971/-. The said notice was issued by the 5th respondent arbitrarily by fixing the date of granting the benefit from 01.07.2006 instead of 08.08.2000.

2.2. The 5th respondent/ Society has granted benefit from the date of renewal as per G.O.(2D) No.77, dated 22.07.2009 to one J.Senthilvel a member of the society who has availed similar loan, pursuant to the directions of the Registrar of Co-operative Societies in Na.Ka.No.109517/09/Ma.Va.Ko.3, dated 19.10.2009. Based on the above order, the 5th respondent/Society informed the petitioner to avail interest waiver facility from the date of renewal of the loan, but the Registrar, Cooperative Societies, without consulting the 5th respondent, rejected the petitioner's interest waiver and had passed an order directing the petitioner to pay the 1st installment of Rs.2,94,961/- before the cut off date i.e 31.10.2009 and pay the balance amount within three months from 01.11.2009.



2.3 Challenging the said rejection order, the writ petitioner had earlier approached this Court in W.P.No.1273 of 2010 to quash the order passed in Na.Ka.No. 109517/09/Ma.Va.Ko.3, dated 19.10.2009. This Court by order dated 11.07.2017 directed the 1st respondent to nominate the senior officer in the cadre of Joint Registrar and conduct enquiry. Accordingly, the 1st respondent appointed the 3rd respondent herein for conducting enquiry. After enquiry, the 3rd respondent without considering the records produced by the petitioner, had rejected the request made by the petitioner vide proceedings No.8201/2017 Ma.Va, dated 21.12.2017 which is impugned in the present writ petition.

3. Heard both sides and perused the documents available on record.

4. According to the learned counsel for the petitioner that the writ petitioner had already repaid the amount of Rs.15,89,089/- for the loan amount of Rs.10,00,000/- at the rate of interest 18% per annum. Therefore, the petitioner is eligible for loan interest waiver from the date of renewal as per G.O.(2D) No.77, Cooperation, Food and Consumer Protection Department, dated 22.07.2009.

5. The learned Additional Government Pleader has filed counter affidavit and submitted that the 4th respondent in letter No. Na.Ka.4236/2012 Tho.Ve.Sa dated, by referring instructions of the 1st respondent in Na.Ka.4691/2016/Ma.Va.So.3 dated 06.11.2017 and the instructions of the 2nd respondent in Na.Ka.7708/2017 tho.Ve.sa dated 10.11.2017, has instructed the 5th respondent to implement the aforesaid special loan settlement scheme of the Government of Tamil Nadu from the date of loan in respect of two persons namely J.Senthilvel and N.S.Krishnan. Accordingly, the 5th respondent has implemented the said special loan settlement scheme and calculated the reduced rate of interest from the date of the loan for the aforesaid two persons.

6. The learned Additional Government Pleader further submitted that insofar as the present case on hand, the respondents will abide the decisions of this Court and pass appropriate orders.

7. After analysing the submissions made by both the learned counsels and the statement made in the counter affidavit filed by the 2nd respondent and in view of the specific statement made by the 5th respondent that the benefit in respect of said two persons namely J.Senthilvel and N.S.Krishnan was implemented based on the report of the 2nd respondent, this Court finds it



proper to direct the respondents to consider the petitioner's request on par with the benefits granted to the aforesaid two persons.

8. Accordingly, the 3rd & 5th respondents are directed to calculate the rate of interest for the aforesaid special loan from the date of actual loan availed by the writ petitioner i.e. On 08.08.2000 on par with similarly placed persons. The 5th respondent shall communicate the same to the writ petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

9. With the above directions, the writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Registrar of Cooperative,
Societies E.V.R.Periyar Road Kilpauk,
Chennai-10.
- 2 The Joint Registrar of
Cooperative Societies Erode Region,
Karungalpalayam, Erode- 638003.
- 3 The Joint Registrar of
Cooperative Societies Salem Region Salem,
Salem District.
- 4 The Deputy Registrar of
Cooperative Societies, Erode Circle, Erode,
Erode District



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The President,
Modakkurichi Primary Agricultural,
Cooperative Credit Society Ltd No.AA 226,
Modakurichi- 638104 Erode District.

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+1cc to Mr.C. Prakasam, Advocate, Sr.22335.

+1cc to Government Pleader, Sr.22210

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PCH[co]
NSK 19/07/2021