



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No. 19416 of 2021

M.Nagarajan

... Petitioner

-vs-

1. The Joint Registrar of Co-operative Societies,
Erode Region,
Thiru Nagar Colony,
Erode, Erode District.

2. The Deputy Registrar of Co-operative Societies,
Gobichettipalayam Circle,
Pudupalayam - 638 452,
Gobichettipalayam Taluk,
Erode District.

3. The Sathyamangalam Primary Co-operative
Agricultural and Rural Development Bank,
Sathyamangalam - 638 402,
Erode District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to grant waiver of the agricultural loan availed by the petitioner under the non-farming sector loan, by considering the petitioner's representation dated 05.08.2020.

For Petitioner : Mr.N.Manokaran
For Respondents : Mrs.Akila Rajendran
Government Advocate for R1 & R2
Mr.V.Nanmaran
Government Advocate for R3

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to grant waiver of the agricultural loan availed by the petitioner under the non-farming sector loan, by considering the petitioner's representation dated 05.08.2020.



2. That the petitioner is a member of the third respondent Bank. He availed an agricultural loan for a sum of Rs.89,200/- which was sanctioned in the year 1999 to and in favour of the petitioner. However, as a first installment, only a sum of Rs.56,800/- was paid by the third respondent to the petitioner. In respect of second installment of Rs.32,400, three months time was given to disburse the same to the petitioner.

3. However, in the meanwhile, some fraudulent activities had been committed by the erstwhile Manager of the Society one Subramaniam, the said Subramaniam had committed serious irregularities and misappropriated the loan amounts of the members of the third respondent Bank including the part of the loan amount payable to the petitioner. In this regard, though complaint had been given and FIR was registered against the said Subramaniam in Crime No.51 of 2002 in C.C. No. 501 of 2013 on the file of the Chief Judicial Magistrate Court, Erode, during the pendency of the said criminal case, the said Manager Subramaniam since died on 27.08.2007, the said case was closed as abated.

4. Subsequently, similar to that of the petitioner, some of the persons, i.e, the members of the third respondent Bank who also are similarly placed to make availment of the waiver announced by the Government through G.O.Ms.No.70, Co-operative Food and Consumer Protection Department dated 13.05.2006 had approached this Court by filing Writ Petitions in W.P. Nos. 7635, 7636 and 7637 of 2010, wherein, this Court passed an order on 08.08.2017.

5. As per the said order, the Writ Court has already directed the second respondent Society that, in the interest of justice, the society was directed to consider the claim of the petitioners in that Writ Petitions for granting waiver of the loan as announced by the Government through G.O.Ms.No.70 dated 13.05.2006 and pass appropriate orders as expeditiously as possible.

6. Pursuant to the said order passed by this Court in the said Writ Petitions, a proposal has been sent by the third respondent to the first respondent through the second respondent listing out some of the members of the respondents' Societies including the name of the petitioner that, they are eligible to get the waiver as per the Government G.O.Ms.No.70. When the said proposal was forwarded to the Registrar of Co-operative Societies, he after having considered the same by his communications dated 22.05.2019 and 21.09.2020 has sought for certain clarification.



7. In respect of those clarifications sought for by the Registrar of Co-operative Societies, the third respondent Bank has prepared the clarification and it is ready for forwarding the same to the Registrar of Co-operative Societies through the first and second respondents, i.e., proper channel. Therefore, once that is forwarded to the Registrar of Co-operative Societies, on the basis of the Government order, suitable direction would be given to the Registrar of Co-operative Societies with regard to the waiver of the loan obtained by the petitioner and others as whose names are already been forwarded in the said list and therefore, without awaiting the said decision to be taken to extent the benefit of waiver to the various members of the third respondent including the petitioner, according to the third respondent, the petitioner has rushed to the Court by filing the present Writ Petition.

8. All these aforesaid developments have been stated in the counter affidavit filed by the third respondent, where the following averments have been made:

"7. I submit that the Manager Subramaniam of the third respondent Bank had committed serious irregularities and misappropriated the loan amounts of the members of the third respondent Bank. The petitioner's loan accounts is one of those loan accounts wherein the said Subramaniam had committed the irregularity. In this regard, a complaint has been given to the Sathyamangalam Police Station and FIR in Crime No. 51 of 2002 was registered against the said Subramaniam. Thereupon, the said Complaint has been taken on file in C.C. No. 501 of 2013 on the file of the Chief Judicial Magistrate, Erode. During the pendency of the said case, the accused Subramaniam died on 27.08.2007 and as such, the said case was closed as abated.

8. I submit that few members of the third respondent Bank affected by the said irregularities committed by the said Subramaniam have had filed W.P. Nos. 7635, 7636 and 7637 of 2010 before this Hon'ble Court against the respondents herein for a direction to discharge them from all the agricultural loans availed by them. By the order dated 08.08.2017, the Hon'ble Court was pleased to held, thus:



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"4. The petitioner had nothing to do with aforesaid irregularities committed by the officials. According to the petitioner, there is no justification to deny waiver scheme to the petitioner as announced by the Government as per G.O.Ms.No.70, Co-operative Food and Consumer Protection Department dated 13.05.2006. The aforesaid G.O. also not prohibiting or restraining the petitioner from availing waiver scheme except the loan was sanctioned with falsification of records, the application for the waiver scheme cannot be rejected. Except the aforesaid condition, no other condition was imposed in the Government Order.

5. Therefore, in the interest of Justice, the second respondent is directed to consider the petitioner's claim for granting waiver of the loan as announced by the Government in G.O.Ms.No.70 dated 13.05.2006 and pass appropriate orders on merit as expeditiously as possible preferably within a period of three months from the date of receipt of copy of this order"

9. I submit that following the Judgments passed in W.P. Nos. 7635, 7636 and 7637 of 2010 aforesaid, the second respondent herein has submitted a proposal dated 13.04.2018 to the first respondent herein, enclosing a list of eligible loanees who are affected by the aforesaid irregularities and are otherwise qualified, to include them in the loan waive list so as to get waiver from the Government. The petitioner is one among the loanees mentioned in the aforesaid proposal. Thereupon, the first respondent has forwarded the said proposal to the Registrar of Co-operative Societies, Chennai. The Registrar of Co-operative Societies, Chennai by the communications dated 22.05.2019 and 21.09.2020 has sought for certain clarification. After rectification, the proposal is ready to be forwarded through proper channel. Under those circumstances, the petitioner has filed the present Writ Petition. I submit that the petitioner has been informed about the aforesaid events. Without waiting for the waiver, the



petitioner has filed the present Writ Petition."

9. Relying upon these averments made in the counter affidavit, the learned Government Advocate appearing for the third respondent would contend that, once the clarification sought for by the Registrar of Co-operative Societies is forwarded by the third respondent through the proper channel within a reasonable time, suitable directions to be issued by the Registrar of Co-operative Societies, pursuant to which, certainly, the waiver sought for by the petitioner and other eligible persons who are the members of the third respondent Bank would be considered and extended. Therefore, the petitioner can wait for sometime.

10. The said position has been reiterated by the learned Government Advocate appearing for the first and second respondents.

11. In view of the said stand taken by the respondents as has been reflected in their counter affidavit, this Court feels that, since the eligibility of the petitioner to get the waiver of loan as per G.O.Ms.No.70 dated 13.05.2006 is not in dispute and in this regard, already proposal has been sent or being forwarded or resubmitted by the third respondent to the Registrar of Co-operative Societies through proper channel, the petitioner can wait for some time, so that, he can get a relief from the respondents once final order is passed by the Registrar of Co-operative Societies based on the Government policy taken through the said Government order.

12. In that view of the matter, this Court feels that, recording the aforesaid developments including the averments made in the counter affidavit filed by the third respondent as referred herein above, this Writ Petition can be disposed of.

13. Accordingly, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

vji



To

1. The Joint Registrar of Co-operative Societies,
Erode Region,
Thiru Nagar Colony,
Erode, Erode District.

2. The Deputy Registrar of Co-operative Societies,
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Pudupalayam - 638 452,
Gobichettipalayam Taluk,
Erode District.

3. The Sathyamangalam Primary Co-operative
Agricultural and Rural Development Bank,
Sathyamangalam - 638 402,
Erode District.

+1cc to Mr.N.Manokaran, Advocate SR.No.58280
+1cc to the Government Pleader, SR.No.58542

W.P. No. 19416 of 2021

PM(CO)
CB(29/11/2021)