

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2021

C O R A M

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.19537 of 2020
and W.M.P.No.24157 of 2020

R.K.Ramessh

... Petitioner

Vs.

1. M/s.Hinduja Leyland Finance Limited,
No.1, Sardar Patel Road,
Guindy, Chennai.
2. The Reserve Bank of India,
Central Office Building,
Shahid Bhagat Singh Marg,
Mumbai.
3. The Ministry of Micro Small and Medium Enterprises,
Office of the DC (MSME),
Nirman Bhavan,
New Delhi.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the first respondent to adhere to the guidelines issued by the third respondent dated 24.06.2020 and grant the eligible additional sum of Rs.75.00 lakhs to the petitioner without insisting on additional security in strict adherence of the circular.

For Petitioner : Mr.Ananda Gomathy Murugesan

For Respondents : Mr.V.Balasubramani for R1

Ms.A.Anuradha for R3

ORDER

This Writ Petition has been filed for a mandamus seeking for a direction to the first respondent to adhere to the guidelines issued by the third respondent dated 24.06.2020 and grant the eligible additional loan of Rs.75 lakhs to the petitioner without insisting on additional security in strict adherence to the aforementioned circular.

2. The petitioner availed financial facilities from the first respondent. He claims that his concern is a Micro Small and Medium Enterprise. According to him, even though he is a defaulter under the loan agreements entered into with the first respondent, he is entitled for the benefits under the Distressed Assets Fund - Subordinate Debt for Stressed MSMEs scheme issued by the third respondent and approved by the Reserve Bank of India, which is applicable to all financial institutions including the first respondent. According to the petitioner, under the said scheme, the petitioner is entitled for additional loan facilities to the tune of Rs.75 lakhs. However, according to the petitioner, despite several representations, the first respondent has not considered the petitioner's eligibility for additional loan as per the aforementioned scheme. In such circumstances, this Writ Petition has been filed seeking for a mandamus to direct the first respondent to adhere to the aforementioned scheme.

3. Heard Mr.Ananda Gomathy Murugesan, learned counsel for the petitioner, Mr.V.Balasubramani, learned counsel appearing for the respondent-1 and Ms.A.Anuradha, learned counsel appearing for the respondent-3.

4. Even though a positive direction has been sought for in this Writ Petition, namely, to direct the first respondent to adhere to the Distressed Assets Fund - Subordinate Debt for Stressed MSMEs scheme issued by the third respondent and approved by the second respondent, such a relief cannot be granted by this Court. It is for the first respondent to consider the same on merits and in accordance with law, if the petitioner is so eligible.

5. Admittedly, as seen from the affidavit filed in support of this Writ Petition, no representation has been given by the petitioner seeking benefits under the aforementioned Scheme. As indicated earlier, this Court cannot issue a positive direction as sought for in this Writ Petition. The only limited relief that can be granted to the petitioner is to give a representation requesting the first respondent to grant an additional loan amount of Rs.75 lakhs under the Distressed Assets Fund - Subordinate Debt for Stressed MSMEs Scheme issued by the third respondent and approved by the second respondent. It is for the first respondent to consider the said representation on merits and in accordance with law. However, since the petitioner is already facing financial crisis, the representation of the petitioner will have to be considered by the first respondent expeditiously within a time frame to be fixed by this Court.

6. For the foregoing reasons, this Court directs the petitioner to give a representation to the first respondent requesting for an additional loan amount of Rs.75 lakhs under the Distressed Assets Fund - Subordinate Debt for Stressed MSMEs Scheme issued by the third respondent and approved by the second respondent, within a period of period of one week from the date of receipt of a copy of this order. On receipt of the said representation, the first respondent shall pass final orders on merits and in accordance with law after affording one personal hearing to the petitioner within a period of four weeks thereafter.

7. With the aforesaid directions, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srn
To

- 1.The Reserve Bank of India,
Central Office Building,
Shahid Bhagat Singh Marg,
Mumbai.
- 2.The Ministry of Micro Small and Medium Enterprises,
Office of the DC (MSME),
Nirman Bhavan,
New Delhi.

+1 CC to Mr.V.Balasubramani, Advocate sr 11743.
+1 CC to M/s.A. Anuradha, Advocate sr 11454.

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SP(17/03/2021)