



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2021

CORAM :

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.7296 of 2012

and

M.P. (MD) No.1 of 2012

and

WMP (MD) No.22766 of 2018

Shree Muthalamman Agricultural
Tractor Holders Welfare Association
(Ploughing Machine)
(A society registered under societies
Registration Act in Reg. No.53/2012)
Through its Secretary
Marimuthu

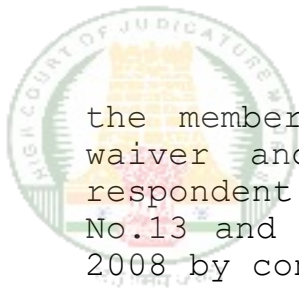
...Petitioner

Vs.

- 1.The Government of India,
Through its Chief Secretary to Government,
New Delhi.
- 2.The National Level Monitoring Committee,
For Implementation of the Agriculture,
Debt Waiver and Debt Relief Scheme 2008,
New Delhi.
- 3.The Chairman,
The Canara Bank,
Bangalore.
- 4.The Chief Branch Manager,
Canara Bank,
Karaikudi Branch,
Karaikudi.
- 5.Reserve Bank of India,
Fort Glacis,
Rajaji Salai,
Post Box No.40, Chennai-1.

.... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the fourth respondent to issue loan Waiver Certificate/Certificate of discharge of loan available for the purpose of purchase of Tractor/Ploughing machine by



the members of the association in terms of the agriculture debt waiver and debt relief scheme 2008 and further directing the respondent Nos.1 and 2 to pass suitable orders in terms of clause No.13 and 14 of the Agriculture Debt Waiver and Debt Relief Scheme 2008 by considering the representation, dated 16.04.2012.

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For Petitioner : Mr.Eddy and Embboss

For R-3 & R-4 : Mr.R.Sundar Srinivasan

ORDER

This writ petition has been filed for the issue of a writ of Mandamus directing the fourth respondent to issue loan waiver certificate to the members of the association in terms of the Debt Relief Scheme 2008 and for further direction to the respondents to pass suitable orders in line with the scheme after considering the representation made by the petitioner's association on 16.04.2012.

2.The case of the petitioner is that the members belonging to the association are eligible for the loan waiver as per the Agriculture Debt Waiver and Debt Relief Scheme 2008. Since individual agriculturists were not in a position to seek for the waiver, the association in order to help the agriculturists has approached this Court seeking for issuing appropriate directions to the respondents.

3.The fourth respondent has filed a counter affidavit in this case. The relevant portions in the counter affidavit are extracted hereunder:-

"..3.At the outset and before embarking upon the merits of the allegations in the affidavit filed in support of the writ petition, I respectfully submit that the writ petition by a society representing its members is not sustainable in as much as the scheme is applicable on the basis of the provisions contained in the scheme and based on facts and circumstances of each individual case. Therefore, the petitioner society is not entitled to file a single writ petition professing to represent all the members. Therefore, on the said ground alone, the writ petition is liable to be dismissed.

4.Regarding the allegations in Paras 2 and 3 of the affidavit, I respectfully submit that the said association appears to have been formed to defeat and delay the legal recovery proceedings by the Bank and inspite of the fact that the Bank has given opportunities to the various loanees by sending communication to them to avail the benefits of the scheme by misrepresenting the various loanees regarding the applicability of the provisions of



the said scheme, the said Association appears to have been formed and the said writ petition came to be filed by the said Association.

5.Regarding the allegations in Para-4 of the affidavit, extracting the provisions of the scheme, I respectfully submit that the said affidavit conveniently omitted to mention the relevant provision namely, Clause-3.3 of the scheme which defines Investment Loan. As per Rule 3.3a, loan granted for purchase of Tractors will come under the category of investment loan and Rule 4.1(b) defines the eligibility amount for investment loan for waiver as follows:

Rule 4.1(b)

"In case of an investment loan, the installments of such loan that are overdue (together with applicable interest on such installments) if the loan was

(i)disbursed from April 1st. 1997 upto March 31st 2007 and overdue a on December 31st, 2007 and remaining unpaid until February 29, 2008.

(ii)re-structured and reschedule by Banks in 2004 and in 2006 through the Special packages announced by the Central Government and

(iii)re-structured and re-scheduled in the normal course upto March 31st 2007 as per applicable RBI Guidelines on account of natural calamities.

Explanation:

In case of an investment loan disbursed upto March 31st, 2007 and classified as Non-performing asset or suit filed account, only the installments that were overdue as on December 31st, 2007 shall be the eligible amount."

4.Heard Mr.Eddy and Embboss, learned counsel appearing on behalf of the petitioner and Mr.R.Sundar Srinivasan, learned counsel appearing on behalf of the respondents 3 and 4.

5.In the present case, the demand made by the members of the petitioner's association pertains to issuance of a waiver certificate for the entire loan amount. The waiver is sought for under the scheme that was brought into force in the year 2008. In order to claim for such a waiver, the concerned person will have to satisfy the requirements under the scheme. It therefore would require each of those persons, who had availed the loan to satisfy the authority that he/she is entitled for such a waiver. An association cannot approach the Court and seek for the relief for all its members. Only an individual can seek for the relief of waiver. The fourth respondent has rightly objected to the association approaching this Court seeking for the waiver of the loan amount for all the members belonging to the association under



the scheme.

6.This Court does not want to enter into the merits of the claim made by the association and the answer given by the fourth respondent pertaining to the same in the counter affidavit. Such an exercise may not be required, since the eligibility will have to be considered for every person who is seeking for a waiver and there cannot be a finding given by this Court on a general basis.

7.In view of the above discussion, this Court is of the considered view that the writ petition filed by the association cannot be maintained. If at all any of the agriculturist is entitled to seek for the waiver, they have to individually approach the fourth respondent seeking for the waiver by giving all the particulars and it is left open to the fourth respondent to consider the same in terms of the 2008 scheme.

8.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to M/s.EDDY & EMBBOSS LAW FIRM, Advocate (SR-18226 [F] dated 30/04/2021)

+1 CC to M/s.S.JEYASINGH, Advocate (SR-18243[F] dated 30/04/2021)

Order made in

W.P. (MD) .No.7296 of 2012

Dated:

29.04.2021

GS (18.06.2021) 4P 3C

<https://hcservices.ecourts.gov.in/hcservices/>