BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.06.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD).No.20710 of 2013

K.Muthusamy ... Petitioner

Vs.

1.The District Collector,
Collectorate,
Madurai District.

2.The Regional Manager,
Agricultural Insurance Company of India,
No.323, 1st Floor,
Andhra Insurance Building,
Thambuchetty Street, Chennai.

3.The Secretary,
A-2973, Kodangipatti Primary Agricultural
Co-operative Society,
Kodangipatti,
Vadipatti Taluk,
Madurai District. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents to provide the insurance amount of Rs.2,00,000/- under Crop Insurance cum Flood Relief Scheme to the petitioner.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mr.S.Shanmugavel for R1
Special Government Pleader

Mr.D.Srinivasa Raghavan for R2

Mr.K.P.Krishnadass for R3

ORDER

(Heard through video conference)

This writ petition has been filed for the issuance of writ of Mandamus directing the respondents to compensate the petitioner under the Crop Insurance Scheme for the loss sustained by him due to heavy floods.

2.The case of the petitioner is that he is an agriculturist, who is cultivating red banana in his land. The petitioner had approached the third respondent and had sought for a loan to the tune of Rs.42,000/- (Rupees Forty Two Thousand only). According to the petitioner, he received only a sum of Rs.28,000/- (Rupees Twenty Eight Thousand only) from the third respondent against the total sanctioned loan amount of Rs.42,000/- (Rupees Forty Two Thousand only) on 31.03.2010. During November 2010, there were heavy floods, as a result of which, the crops got damaged and the petitioner sustained a loss to the tune of Rs.2,00,000/- (Rupees Two Lakhs only).

3.The grievance of the petitioner is that the third respondent was insisting for the repayment of the sum of Rs.42,000/- (Rupees Forth Two Thousand only) with interest and whereas, the petitioner had received only a sum of Rs.28,000/- (Rupees Twenty Eight Thousand only). That apart, the petitioner was not compensated for the loss sustained by him under the Crop Insurance Scheme. Hence, the present writ petition has been filed before this Court seeking for appropriate directions.

4.The second respondent, which is the Agriculture Insurance Company has filed a counter affidavit. The counter affidavit explains the manner in which the compensation is calculated. It is also stated that the Agriculture Insurance Scheme is implemented through the Nodal Banks and in the present case, the Madurai District Central Co-operative Bank is the Nodal Bank. It is further stated that at the time of getting the Crop loan, a premium is also collected from the farmer towards the insurance scheme by the Nodal Bank and this amount is handed over to the second respondent. According to the second respondent, the loss is assessed under the scheme by taking into consideration the concerned Taluk / Firka as a whole. It is further stated in the counter that the Nodal Bank has not even been made as a party in this writ petition and it is for the petitioner to establish that he has paid the appropriate premium in order to claim a sum of Rs.2,00,000/- (Rupees Two Lakhs only) towards loss sustained.

5.The third respondent has also filed a counter affidavit in this case. The specific stand taken by the third respondent is that the petitioner applied for a loan of a sum of Rs.42,000/- (Rupees Forty Two Thousand only) and the same was sanctioned after deducting a sum of Rs.1,266/- (Rupees One Thousand Two Hundred and Sixty Six only) towards the insurance premium and this amount was paid to the Madurai District Central Co-operative Bank. It is specifically denied in the counter affidavit with regard to the allegation made by the petitioner to the effect that the petitioner received only a sum of Rs.28,000/- (Rupees Twenty Eight Thousand only). It is further stated that the third respondent has nothing to do with the non-receipt of the amount for the loss sustained from the second respondent / Insurance Company.

6.Heard Mr.R.Venkatesan, learned counsel appearing for the petitioner, Mr.S.Shanmugavel, learned Special Government Pleader, appearing for the first respondent, Mr.D.Srinivasa Raghavan, learned counsel appearing for the second respondent and Mr.K.P.Krishnadass, learned counsel appearing for the third respondent.

7.The limited issue that arises for consideration in the present writ petition is as to whether the petitioner is entitled to claim a sum of Rs.2,00,000/- (Rupees Two Lakhs only) under the Crop Insurance Scheme from the second respondent/ Insurance Company.

8.It is seen from the records that the petitioner was sanctioned a loan of Rs.42,000/- (Rupees Forty Two Thousand only) on 31.03.2010. Even though the petitioner claims that he received only a sum of Rs.28,000/- (Rupees Twenty Eight Thousand only) from the third respondent, there are absolutely no materials to sustain this allegation except the *ipse dixit* of the petitioner. In fact, the third respondent had initiated proceedings in the year 2012 against the petitioner to recover a sum of Rs.42,000/- (Rupees Forty Two Thousand only) that was sanctioned as loan with interest. It is only during this process, the petitioner has chosen to come up with the present writ petition, seeking for the crop insurance and incidentally while making this claim, the petitioner also makes an allegation as if he received only a sum of Rs.28,000/- (Rupees Twenty Eight Thousand only) from the third respondent. The third respondent has taken a very clear stand in the counter affidavit to the effect that from the sanctioned loan amount of Rs.42,000/- (Rupees Forty Two Thousand only), only a sum of Rs.1,266/-(Rupees One Thousand Two Hundred and Sixty Six only) was deducted towards insurance premium. There is no ground to disbelieve the stand taken by the third respondent and this Court is of the considered view that the petitioner has not substantiated the allegation that he received only a sum of Rs.28,000/- (Rupees Twenty Eight Thousand only) from the third respondent.

9.Insofar as the claim made towards the loss sustained under the crop insurance scheme, a specific stand has been taken by the third respondent to the effect that the premium amount of Rs.1,266/- (Rupees One Thousand Two Hundred and Sixty Six only) that was deducted, was paid to the Nodal Bank, which is the Madurai District Central Co-operative Bank. This Bank has not been made as a party in the present writ petition. Unless this Nodal Bank is a party in this writ petition, it is not possible to ascertain as to whether this amount of Rs.1,266/- (Rupees One Thousand Two Hundred and Sixty Six only) was sent to the second respondent towards the Insurance premium. Without there being clarity on facts, it is not possible for this Court to issue any directions. That apart the second respondent has also taken a very clear stand that under the scheme the loss will be assessed by the crop cutting experience, which is undertaken at a Taluk / Firka level. In other words, the loss is not assessed on an individual basis and it is assessed only at the Taluk / Firka level. To undertake this exercise, the data must be provided by the State Government and these particulars in turn will be forwarded by the Nodal Bank to the second respondent. As per the data received by the second respondent from the State Government, for banana crop, it was seen that there was no short fall for the notified area namely the Vadipatti Block and therefore, no claim is payable by the second respondent.

10.Insofar as the claim made under the scheme, the parties are bound by the terms of the scheme and this Court cannot travel beyond those terms and issue any directions for the payment of the amount towards the loss sustained.

11.In view of the above discussion, this Court does not find any ground to grant the relief as sought for by the petitioner and accordingly, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TM

To

1.The District Collector, Madurai.

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-19368[F] dated 16/06/2021)

+1 CC to M/s.SPL GP (SR-19504[F] dated 17/06/2021)

W.P.(MD).No.20710 of 2013

15.06.2021

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TR(24.06.2021) 4P 4C