



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.NOS.1873, 3626 TO 3630, 3634, 3638, 3641 TO 3643,
3647, 3650 & 3653 OF 2022

AND

W.M.P.NOS.2023, 2024, 3764, 3766, 3770, 3771, 3773,
3774 TO 3778, 3780, 3782, 3789, 3790, 3794 TO 3799,
3802, 3803, 3806, 3807, 3809 & 3810 OF 2022

Shanthi	...Petitioner in W.P.No.1873 of 2022
R.Govindharaj	...Petitioner in W.P.No.3626 of 2022
G.Venkatesan	...Petitioner in W.P.No.3627 of 2022
K.Murugan	...Petitioner in W.P.No.3628 of 2022
Jaya	...Petitioner in W.P.No.3629 of 2022
M.Raman	...Petitioner in W.P.No.3630 of 2022
R.Perumal	...Petitioner in W.P.No.3634 of 2022
A.Palanisamy	...Petitioner in W.P.No.3638 of 2022
K.Duraisamy	...Petitioner in W.P.No.3641 of 2022
P.Perumal	...Petitioner in W.P.No.3642 of 2022
A.Annamalai	...Petitioner in W.P.No.3643 of 2022
C.Sundarraaj	...Petitioner in W.P.No.3647 of 2022
V.Kandhan	...Petitioner in W.P.No.3650 of 2022
Rangammal	...Petitioner in W.P.No.3653 of 2022

Vs.

- 1.The State of Tamil Nadu,
Rep. by it's Additional Chief Secretary,
Co-operative, Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.
- 2.The Registrar of Co-operative Societies,
Kilpauk,
Chennai - 600 010.
- 3.The Joint Registrar of Co-operative Societies,
Krishnagiri - 635 101.
- 4.The Deputy Registrar of Co-operative Societies,
Krishnagiri - 635 101.



5.The Secretary,
S.1101, Pavakkal Primary Agricultural
Co-operative Credit Society,
Pavakkal, Uthangarai Taluk,
Krishnagiri District - 635 307.

...Respondents in all WPs

Common Prayer : Writ Petitions are filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records in Na.Ka.No.289/2021/Tho.Va-19(39), (3), (14), (34), (21), (16), (46), (47), (17), (31), (26), (44), (15), (28) dated 19.02.2021 on the file of the 4th respondent and quash the same and consequently direct the 4th & 5th respondents to waive the loan of the petitioners and issue loan waiver certificate to the petitioners.

For Petitioner : Mr.J.Bharathi Raja in all W.Ps

In W.P.Nos.1873,3626,3630,3638,3641,
3642,3643,3647,3650,3653 of 2022 :

For Respondents 1 to 5 : Mr.U.Bharanidharan
Additional Government Pleader

In W.P.Nos.3627 & 3628 of 2022 :

For Respondents 1 to 4 : Mr.U.Bharanidharan
Additional Government Pleader

For 5th Respondent : Mr.A.Selvendran
Special Government Pleader

In W.P.Nos.3629 & 3634 of 2022 :

For Respondents 1 to 4 : Mr.U.Bharanidharan
Additional Government Pleader

For 5th Respondent : Mr.P.Ganesan

C O M M O N O R D E R

The petitioners are challenging the order of the 4th respondent rejecting their claim for waiver of agricultural loan.

2.The issues involved in all the Writ Petitions are one and the same and hence, they are disposed of by this common order.

3.According to the petitioners, they are small scale farmers and the 5th respondent society lend loans to the needy farmers either by KCC crop loans or jewel loans (for agricultural



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purposes) for the small scale farmers. The petitioners approached the 5th respondent society during the month of January 2021 for availing KCC crop loan and submitted necessary documents along with loan applications. On 22.01.2021, the 5th respondent society sanctioned loan to the petitioners and on the same day, loan amount were credited to their account after deducting the money towards fertilizers and the fertilizers were also issued to them on the same day i.e., on 22.01.2021. Further, the 5th respondent also issued receipts for having paid the loan amount to the petitioners account and also for having issued fertilizers. Further entries were made in the KCC card of the petitioners for having disbursed the loan amounts to them on 22.01.2021. The Government of Tamil Nadu took a decision to waive all the crop and jewel crop loans availed from the Co-operative societies and the 1st respondent issued a Government Order to that effect in G.O.(Ms).No.16, Co-operative, Food and Consumer Protection Department, dated 08.02.2021. As per the said Government Order, loans availed from the Co-operative societies on or up to 31.01.2021 are eligible for waiver of loan. As per the said Government Order, the petitioners are also entitled for waiver of loan. But, the petitioners came to know that their names were not included in the list of beneficiaries for waiver. Hence, the petitioners made separate representations dated 17.02.2021 to the 3rd respondent and requested the 3rd respondent to grant waiver of loan and issue waiver certificate. On 19.02.2021, the 4th respondent issued the impugned reply, stating that the petitioners have availed loan only on 02.02.2021, i.e., after the cut off date mentioned in the Government Order and hence, they are not eligible for waiver of loan and their names cannot be included in the list of beneficiaries. Thereafter only the petitioners came to know that their loan details were updated in the system maintained by the 5th respondent only on 02.02.2021 and that date was treated by the respondents as loan disbursement date and due to the same, the petitioners are not entitled for waiver of loan. The loan details were updated only for the record purpose. Therefore, the impugned order of the 4th respondent dated 19.02.2021 is without application of mind, that too in a hurried manner on the same day of receipt of representation of the petitioners. Hence, the petitioners have come out with the present Writ Petitions.

4.The learned counsel appearing for the petitioners submitted that the loan was sanctioned and disbursed to the petitioners on 22.01.2021, i.e., before the cut off date i.e., 31.01.2021 and hence, they are entitled to waiver of loan as per G.O.Ms.No.16, Co-operative, Food and Consumer Protection Department, dated 08.02.2021. But, 4th respondent taking into consideration that the loan details of petitioners were updated in the system maintained by the 5th respondent on 02.02.2021, has erroneously passed the impugned orders dated 19.02.2021 without



application of mind. Updating the loan details in the system maintained by the 5th respondent has nothing to do with the date of sanction and disbursal of loan amount to the petitioners. Further, the loan availed by the petitioners was one year term loan and it was due on 21.01.2022 and the term was already over. But, the 5th respondent is making calls to the petitioners over mobile phone and harassing them to pay the loans, failing which legal action would be taken against them to recover the loan. Therefore, the impugned orders of the 4th respondent dated 19.02.2021 are liable to be set aside and the petitioners are entitled to waiver of loan and prayed for allowing the Writ Petition.

5.The respondents filed common counter affidavit and denied all the averments made by the petitioners in the affidavit.

6.Mr.U.Baranidharan, learned Additional Government Pleader appearing for the respondents submitted that the Government of Tamil Nadu has passed a Government Order in G.O.(Ms).No.16, Cooperation, Food and Consumer Protection (CC1) Department, dated 08.02.2021, for waiver of agricultural crop loans issued by Cooperative Banks which were outstanding on 31.01.2021. In the present case, the petitioners were sanctioned with Kissan Credit Card Loan (KCC) and fertilizers only on 22.01.2021. Further, it is seen from the respective Pass Book of the petitioners that the actual disbursement of cash was only on 02.02.2021. As per the guidelines issued by the 1st respondent, list of beneficiaries under the Loan Waiver Scheme - 2021 was published in the Notice Board of the Society and VAO's Office. After seeing the Notice Board wherein their names were not found in the beneficiaries list, the petitioners filed objection before the 4th respondent. The said objections were referred to the Committee constituted for the purpose of redressal of objection which consists of Circle Supervisors, Field Manager of Dharmapuri District Central Coop. Bank and Field Officer, Uthangarai. In the Committee meeting held on 18.02.2021, after examining the records, it was revealed that the loan amounts were credited to the petitioners account only on 02.02.2021 i.e., after 31.01.2021 and there is no crop loan outstanding as on 31.01.2021. Hence, as per the Government Order dated 08.02.2021, the petitioners are not eligible for waiver of loan under the Waiver of KCC Loans - 2021 scheme. He further submitted that the impugned orders were passed on 19.02.2021 and all the Writ Petitions are filed after delay of more than one year. As per the time schedule prescribed by the 2nd respondent, the petitioners ought to have filed appeal before the 3rd respondent. Without availing the alternate remedy, the petitioners have come out with the present Writ Petitions, which are not maintainable and prayed for dismissal of the Writ Petitions.



7. Heard the learned counsel appearing for the petitioners as well as the learned Additional Government Pleader appearing for the respondents and perused the entire materials on record.

8. According to petitioners, they have availed agricultural loan on 22.01.2021, i.e., before 31.01.2021, the date specified in the G.O.Ms.No.16, Co-operative, Food and Consumer Protection Department, dated 08.02.2021 and they have produced counter voucher, pass book, receipts for purchase of fertilizers and loan amounts were credited to their KCC card on 22.01.2021, i.e., before 31.01.2021 after deducting the amounts for fertilizers. It is the further case of the petitioners that the date of uploading the details in the system / computer is not the date for sanctioning the loan. On the other hand, it is the contention of the respondents that agricultural loans were granted to the petitioners only on 02.02.2021 and there were no outstanding dues as on 31.01.2021 and thus, the petitioners are not entitled for waiver of loan as per G.O.Ms.No.16, Co-operative, Food and Consumer Protection Department, dated 08.02.2021. It is the further case of the respondents that the petitioners ought to have filed appeal before the 3rd respondent and without availing the alternate remedy, the petitioners have come out with the present Writ Petitions.

9. Considering the above rival submissions and the fact that loan amounts sanctioned to the petitioners were given credit to their KCC card on 22.01.2021 itself, the impugned orders of the 4th respondent dated 19.02.2021 are set aside and the petitioners are directed to make a representation to the respondents 1 to 4, enclosing the copies of all the documents relied on by them to show that they have availed agricultural loans on 22.01.2021 i.e., before 31.01.2021 and the same were pending as on 31.01.2021, within a period of two weeks from the date of receipt of a copy of this order. On receipt of said representations, the respondents 1 to 4 are directed to consider the representations of the petitioners taking into consideration the documents filed by them as well as G.O.Ms.No.16, Co-operative, Food and Consumer Protection Department, dated 08.02.2021 and pass orders on merits and in accordance with law after giving opportunity of personal hearing to the petitioners.

10. With the above directions, all the Writ Petitions are disposed of. Consequently the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The State of Tamil Nadu,
Rep. by it's Additional Chief Secretary,
Co-operative, Food and Consumer Protection Department,
Secretariat, Chennai - 600 009.

2.The Registrar of Co-operative Societies,
Kilpauk, Chennai - 600 010.

3.The Joint Registrar of Co-operative Societies,
Krishnagiri - 635 101.

4.The Deputy Registrar of Co-operative Societies,
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5.The Secretary,
S.1101, Pavakkal Primary Agricultural
Co-operative Credit Society,
Pavakkal, Uthangarai Taluk,
Krishnagiri District - 635 307.

+14ccs to M/s.J.Bharathiraja, Advocate Sr.No.22167

+1cc to the Government Pleader Sr.No.21733

W.P.Nos.1873, 3626 to 3630, 3634, 3638,
3641 to 3643, 3647, 3650 & 3653 of 2022

SSN(CO)
RVM(13/05/2022)