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W.P.No.20680 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.20680 of 2009

S.Gurusamy

... Petitioner

Vs.

1.State Bank of India,
Represented by its Branch Manager,
Rural Business Unit,
16, College Road,
Chennai – 600 006.

2.State Bank of India,
Represented by its Branch Manager,
Agricultural Development Branch/Sankari Branch,
Tiruchengode Road,
Sankari – 637 301.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent pertaining to its proceedings dated 17.03.2009 in ADWDR 2008 No. BKJ 23 in respect of the loan No.11215588587 granted by the 2nd respondent and quash the same and consequently direct the respondents to extend the benefit of the Agricultural Debt Waiver and Debt Relief Scheme, 2008 to the petitioner for the loan in respect of Account No.11215588587.



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For Petitioner : Mr.P.Valliappan

For Respondents : Mr.P.R.Pradeep for
Mr.S.Sethuraman for R1

ORDER

This writ petition was filed challenging the proceedings of the 1st respondent dated 17.03.2009, wherein, the request made by the petitioner for waiver of loan under the Agricultural Debt Waiver and Debt Relief Scheme, 2008 (herein referred to as the "Scheme") was rejected by the 1st respondent and for a consequential direction to extend the benefit under the Scheme to the petitioner.

2.The case of the petitioner is that he availed an agricultural loan from the respondent Bank and the 2nd respondent had sanctioned a sum of Rs.10,00,000/- under the classification Tractor Loan. The further case of the petitioner is that the loan amount had to be paid in 60 installments and the petitioner had paid a total sum of Rs.3.35 Lakhs towards principal and interest. It is stated that the petitioner suffered huge losses and was not able to repay back the loan amount and his name was brought under the defaulter's list.

3.The petitioner wanted to avail the waiver of the loan under the



Scheme and hence, he made a representation to the respondent Bank to grant waiver to the petitioner who comes within the category of a small farmer. The 1st respondent through the impugned proceedings rejected the representation made by the petitioner and held that the petitioner is not entitled to avail the Scheme. Aggrieved by the same, the present writ petition has been filed before this Court.

4.The 2nd respondent has filed counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:

6.The petitioner availed the loan for purchase of a Rig unit and not a tractor loan for agricultural purposes. As far as the repayments are concerned they are all matters of record and if at all the petitioner had made their payments the same will be given credit in the account. As far as the alleged loss in the agricultural operation this respondent is not aware of the same and the petitioner put to strict proof of the same.

7.As regard the averment in Para No.3 it is submitted that 'Central Government' has implemented the scheme for Agricultural Debt Waiver and Debt Relief Scheme. However, the petitioner is not coming within the scope of the said scheme and is not entitled to any relief under the said scheme. Therefore, the averments and contentions in this regard are totally



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misconceived.

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8.As regards the averments in Para No.4 it is submitted, it is true the petitioner made a representation claiming relief under Agricultural Debt Relief Scheme. However, the same was rejected by the Respondent as he was not entitled to the relief under the scheme.

5.The learned counsel for the petitioner submitted that the petitioner clearly comes within the scope and ambit of the Scheme, since he is a small farmer who has availed an investment loan as defined under Clause 3.3(a) of the Scheme. It was further submitted that even if the loan is deemed to have been taken for the rig vehicle which is used for laying the bores, the same will fall within the scope of Clause 3.3(a) of the Scheme. It was further submitted that the respondent Bank, who have sanctioned an agricultural loan to the petitioner cannot be permitted to take a stand in this writ petition to the effect that the loan that was sanctioned was not an agricultural loan. The learned counsel concluded his arguments by submitting that the Scheme itself was brought into force to safeguard the interests of small and marginal farmers like the petitioner and hence, a liberal interpretation must be made to the Scheme and the waiver must be granted in favour of the petitioner.



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6.Per Contra, the learned counsel appearing on behalf of the respondents submitted that the very purpose of the Scheme was to safeguard interests of the agriculturalists who suffer loss while undertaking the agricultural activities in their lands. Whereas, in the case of the petitioner, he was running a business called as Guru Rock Drillers, wherein, be used the rig unit with accessories as a business and the loan that was extended for this purpose can never be brought within the scope of the scheme and hence, the respondents have rightly rejected the claim made by the petitioner. It was further submitted that the petitioner who did not properly repay back the loan has made an attempt to escape from the repayment by relying upon the Scheme which is not applicable to the petitioner. In view of the same, the learned counsel for the respondents sought for the dismissal of this writ petition.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.The petitioner applied for a term loan of Rs.10,00,000/- to enable him to purchase a rig unit with accessories. The petitioner is running a concern called as Guru Rock Drillers and he wanted to purchase the rig unit to put it to use in the course of his business. On such application made by



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the petitioner, a sanction letter was issued by the 2nd respondent. In the sanction letter, it is clearly stated that the petitioner is in the trade of drilling new deep bore wells and deepening of existing wells by using the rig unit. The nature of business undertaken by the petitioner involves utilizing the rig unit and drilling to extract water for drinking and agricultural purposes. It is in this understanding, the loan was sanctioned in the name of the petitioner.

9.It is an admitted case that the petitioner was not able to repay back the loan and he had paid only a sum of Rs.3.35 Lakhs towards principal and interest. Since the petitioner did not repay back the loan, the asset was classified as a Non Performing Asset on 30.04.2008 and proceedings were initiated to recover the loan from the petitioner.

10.The limited issue to be considered in this writ petition is as to whether the petitioner will be entitled to avail the waiver of the loan under the Scheme. The Scheme was introduced in the year 2008 in order to cover the agricultural loans that are extended to marginal and small farmers by the Banks. According to the petitioner, he comes within the definition of small farmer, since he was holding agricultural lands less than five acres. The petitioner is attempting to bring his case within the scope of



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investment loan as defined under Clause 3.3(a) of the Scheme.

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11.The 1st respondent through the impugned proceedings dated 17.03.2009, informed the petitioner that the loan that was extended towards purchase of rig unit along with accessories will not fall within the ambit of the Scheme.

12.A careful reading of Clause 3.3(a) of the Scheme shows that the investment loan will cover only where the investment credit is for direct agricultural activities extended for meeting the outlays relating to the replacement and maintenance of assets and for capital investment designed to increase the output from the land. This clearly means that such an investment should be directed for the agricultural land belonging to the borrower. In the present case, the application made by the petitioner and the sanction granted by the 2nd respondent Bank shows that the loan was availed by the petitioner as a proprietor of Guru Rock Drillers who were engaged in drilling of deep bore wells and deepening of existing wells, as a regular business venture. The Scheme obviously was not meant for covering such business ventures. It may be true that the petitioner was owning agricultural lands and may be claiming to be a small farmer. However, the purpose of loan that was sanctioned to the petitioner was



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purely towards the business development of the petitioner who was using the rig unit for deep bore wells and deepening of existing wells in various lands, wherever their services were utilized.

13.In the considered view of this Court, the 1st respondent was perfectly right in rejecting the claim made by the petitioner seeking for the waiver under the Scheme, since the loan itself cannot be strictly construed to be an agricultural loan and it does not fall within the scope of Clause 3.3(a) of the Scheme. This Court does not find any illegality in the decision arrived at by the 1st respondent and it does not require the interference of this Court.

14.In the result, this writ petition stands dismissed. No Costs.

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Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
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N. ANAND VENKATESH, J.

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