



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. No. 11810 of 2017

S.Vinayagamoorthy,
S/o. Subramani

...Petitioner

Versus

1. The Deputy Director of Horticulture,
Thiruvannamalai, Thiruvannamalai Dt.
2. The Manager,
Indian Overseas Bank,
Kanchi Branch, Thiruvannamalai.
3. The Manager,
Vijaya Bank,
Thiruvannamalai Branch,
Thiruvannamalai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to release the subsidy amount of Rs.6,10,000/- within a time frame.

For Petitioner : Mr.R.Dhinesh Kumar
For Respondents : Mr.M.R.Gokulakrishnan,
Addl. Govt. Pleader for R1

Mr.F.B.Benjamin George
for R2

M/s. Ramalingam Associates
for R3

O R D E R

This Writ Petition has been filed seeking a direction directing the 2nd respondent Indian Overseas Bank to release the subsidy amount of Rs.6,10,000/- within a time frame.



2. The grievance of petitioner is that, the petitioner obtained a loan from the 3rd respondent for the purpose of promoting Horticulture in the name of "Green Poly House". Earlier, in order to promote the Horticulture, the Government launched a scheme in the name of "Green Poly House". Under the said scheme, the Government providing subsidy of 50% of total expenses. Since the petitioner opted to promote horticulture under the said scheme, he approached the 3rd respondent Vijaya Bank for the loan amount of Rs.27,00,000/- and it has sanctioned a sum of Rs.16,00,000/-, to implement the said scheme. According to the petitioner, even though a sum of Rs.16,00,000/- towards loan amount was sanctioned, only a sum of Rs.14,26,747/- alone has been released and the remaining amount yet to be released. However, the 1st respondent disbursed 50% of the subsidy of Rs.12,66,000/- with regard to the said scheme to the petitioner and the same was deposited with the 2nd respondent bank. Now, since there is a delay in repayment of loan amount, the 3rd respondent directed the 2nd respondent not to release the remaining fund. Accordingly, the 2nd respondent refused to release the fund to the petitioner. Hence, the present Writ Petition has been filed seeking direction.

3. The learned counsel appearing for 3rd respondent would submit that, the loan was obtained by the petitioner on giving an undertaking to that subsidy amount will be deposited in their bank. In violation of the said undertaking, the petitioner has not deposited the subsidy amount in the 3rd respondent bank. However, after obtaining subsidy, the petitioner did not implement the said same, and also failed to deposit subsidy amount in 3rd respondent bank. In the said circumstances, the 3rd respondent requested the 2nd respondent not to release the fund to the petitioner.

4. Mr.F.B.Benjamin George, learned counsel appearing for 2nd respondent would submit that, based on the request made by 3rd respondent, the 2nd respondent withholding the amount. The learned Addl. Government Pleader appearing for 1st respondent would submit that, the petitioner is entitled to 50% of subsidy from the 1st respondent, but he failed to implement the said scheme despite availing subsidy.

5. Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records carefully.

6. Admittedly, the petitioner has obtained a loan from the 3rd respondent and also availed subsidy from the 1st respondent. The subsidy amount has been deposited by the 1st respondent with the 2nd respondent bank in the petitioner's account. Since the petitioner committed default in repayment of loan amount, the 3rd



respondent requested the 2nd respondent bank not to release the fund to him. Now, the question is whether the 3rd respondent has power to request the 2nd respondent to withhold the amount. It is an admitted fact that, the petitioner committed default in repayment of loan, and it is always open to the 3rd respondent to initiate appropriate proceedings to release the amount in the manner known to law. The 3rd respondent does not have any right to request the 2nd respondent to withhold the subsidy amount and the 2nd respondent also cannot withhold the amount, which has been deposited in the petitioner's account. In the above circumstances, the action of 2nd respondent withholding the amount is not proper. Hence, the 2nd respondent is directed to release the amount deposited in the petitioner's account.

7. However, considering the fact that the petitioner has committed default in repayment of loan, it is always open to the 3rd respondent to initiate appropriate proceedings in the manner known to law to recover the dues if any. Accordingly, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Director of Horticulture,
Thiruvannamalai, Thiruvannamalai Dt.
2. The Manager,
Indian Overseas Bank,
Kanchi Branch, Thiruvannamalai.
3. The Manager,
Vijaya Bank,
Thiruvannamalai Branch,
Thiruvannamalai.

+1cc to Mr.F.B.Benjamin George, Advocate, S.R.No.27233
+1cc to Mr.R.Dhinesh Kumar, Advocate, S.R.No.26932
+1cc to the Government Pleader, S.R.No.27518

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NSK/20/05/2022