BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

Dated : 05.07.2022

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The Hon'ble Mr.Justice G.R.SWAMINATHAN

WP(MD)No.7919 of 2017

Jegadeesan ... Petitioner

v.

1.The General Manager,
District Industrial Centre,
Collector Office (North),
Theni, Theni District.

2.The General Manager,
Administrative Office,
City Union Bank Ltd,
No.24 B, Gandhi Nagar,
Kumbakonam – 612 001.

3.The Branch Manager,
City Union Bank Ltd.,
No.2, Vaigai Damroad,
Tenkarai, Periakulam,
Theni District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the third respondent's letter dated 22.03.2017 to quash the same and consequently directed the 2nd and 3rd respondents to consider the petitioner's representation dated 24.03.2017 and grant loan to the petitioner.

For Petitioner : Mr.G.Gomathi Sankar

For Respondents : Mr.K.Balasubramanian,
Special Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner applied for loan under what is known as Prime Minister's Employment Generation Programme (PMEGP) scheme. The application of the petitioner was forwarded by the District Industries Centre, Theni District to the third respondent bank. The third respondent declined the proposal for certain reasons. Challenging the rejection order passed by the third respondent, this writ petition came to be filed.

3.This writ petition is not maintainable, because City Union Bank is not a nationalised bank. In Federal Bank Ltd. v. Sagar Thomas and others, (2003) 10 SCC 733, the Hon'ble Supreme Court has held as under:

> "28.…As indicated earlier, share capital of the appellant bank is not held at all by the Government nor is any financial assistance provided by the State, nothing to say which may meet almost the entire expenditure of the company. The third factor is

also not answered since the appellant bank does not enjoy any monopoly status nor can it be said to be an institution having State protection. So far as control over the affairs of the appellant bank is concerned, they are managed by the Board of Directors elected by its shareholders. No governmental agency or officer is connected with the affairs of the appellant bank nor is anyone of them a member of the Board of Directors. In the normal functioning of the private banking company there is no participation or interference of the State or its authorities. The statutes have been framed regulating the financial and commercial activities so that fiscal equilibrium may be kept maintained and not get disturbed by the malfunctioning of such companies or institutions involved in the business of banking. These are regulatory measures for the purposes of maintaining a healthy economic atmosphere in the country.

29............Any business or commercial activity, may be banking, manufacturing units or related to any other kind of business generating resources, employment, production and resulting in circulation of money are no doubt, such which do have impact on the economy of the country in general. But such activities cannot be classified as one falling in the category of discharging duties or functions of a public nature. Thus the case does not fall in the fifth category of cases enumerated in the case of Ajay Hasia [Ajay Hasia v. Khalid Mujib Sehravardi, (1981) 1 SCC 722]. Again we find that the activity which is carried on by the appellant is not one which may have been earlier carried on by the Government and transferred to the appellant company."

4.Applying the aforesaid ratio, this writ petition is dismissed as not maintainable. No costs.

05.07.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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