IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.No.2045 of 2023

Sreedharan Subramanian .. Petitioner

Vs.

1. The Reserve Bank of india
Fort Glacis, No.16, Rajaji Salai
Chennai – 600 001.

2. The Karur Vysya Bank
Chinniyampalayam Branch
Coimbatore – 641 062. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus, directing the respondents and particularly the second respondent to consider the petitioner's request dated 03.09.2021 to give moratorium period in view of the guidelines DOR.STR.REC.12/21 04.048/2021-22 dated 05.05.2021 issued by the first respondent and subsequently to restructure the loan amount with proper installments.

For the Petitioner	:	Mr.P.Vijendran
For the Respondents	:	Mr.C.Mohan for M/s.King and Partridge for R1 Dr.S.R.Sundaram for R2

ORDER
(Made by the Hon'ble Chief Justice)

Heard Mr.P.Vijendran, learned counsel for the petitioner, Mr.C.Mohan, learned counsel appearing for M/s.King and Partridge for the first respondent and Dr.S.R.Sundaram, learned counsel for the second respondent.

2. The present petition is filed seeking a direction to the respondents to restructure the loan amount with proper installments.

3.1. Reliance is placed upon the circular of the Reserve Bank of India dated 11.02.2020. According to learned counsel for the petitioner, on 03.09.2021, an application was made by the petitioner for restructuring the loan amount. It is for the respondent Bank to consider the application of the petitioner in view of the aforesaid circular. The respondent Bank failed in its duties by not considering the said application.

3.2. According to the learned counsel, in the Lok Adalat, for One Time Settlement, the respondent Bank gave only one week's time to repay the amount. It was not possible for the petitioner to repay the amount, more particularly during the pandemic. It is further submitted that the ground raised by the Bank on cash flow not being available is because of the Covid-19 pandemic, wherein the industries were closed.

3.3. The petitioner would repay the amount from next month in proper installments and the respondents may be directed to restructure the loan amount. The Ombudsman has also not properly considered the case of the petitioner.

4. Learned counsel for the Bank submits that the financial papers were not submitted by the petitioner up to 30.09.2020. Only an application was made. It was found that there was no operation in the account. There was also no cash flow from the business; the Cibil

Score is also below benchmark.

5. Whether all the conditions referred to in the circular are satisfied or not would be the subject matter of consideration by the experts. All the necessary antecedents are required to be considered. The period of more than one and a half years has lapsed now. The claim of the petitioner for restructure has been negated. This Court would not sit in appeal over the decision of the Bank. It is for the petitioner to approach the Bank for the One Time Settlement, as may be permissible. If the petitioner makes such an application, the Bank may consider the same, on its own merits and in accordance with law.

6. With these observations, the writ petition stands disposed of. There will be no order as to costs.

(S.V.G., CJ.) (P.D.A., J.)
08.09.2023

Index : Yes/No
Neutral Citation : Yes/No
drm

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKESAVALU, J.

(drm)

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