

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 24.08.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.SOUNTHAR**

**W.P.Nos.7729, 7731 and 7732 of 2020**  
**and**  
**W.M.P.Nos.2986, 2989 and 2988 of 2022**

J.Yesuraj ... Petitioner in W.P.No.7729/2020

P.Rajesh Babu ... Petitioner in W.P.No.7731/2020

S.Raju ... Petitioner in W.P.No.7732/2020

vs.

1.MES (Defence) Employees' Co-operative Thrift &  
Credit Society Ltd.,  
Regd. No.XC-176,  
Garrison Engineer,  
Fort St. George,  
Chennai-9.

2.The Registrar of Cooperative Societies,  
No.170, EVR Periyar High Road,  
Kilpauk, Chennai – 10. ... Respondents in all WPs

**PRAYER in W.P.No.7729 of 2020:** Writ Petition is filed under Article 226

of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the undated Order bearing No.1691 issued to this Petitioner calling him to pay the EMI of a sum of Rs.18,715/- and quash the same.

**PRAYER in W.P.No.7731 of 2020:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the undated Order bearing No.1644 issued to this Petitioner calling him to pay the EMI of a sum of Rs.21,375/- and quash the same.

**PRAYER in W.P.No.7732 of 2020:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the undated Order bearing No.1418 issued to this Petitioner calling him to pay the EMI of a sum of Rs.36,393/- and quash the same.

For Petitioners : Mr.P.J.Rishikesh  
(in all WPs)

For R1 : Mr.L.P.Shanmugasundaram  
(in all WPs)

For R2 : Mr.R.U.Dinesh Rajkumar  
Additional Government Pleader  
(in all WPs)

**COMMON ORDER**

These writ petitions are filed challenging the demand notice issued by the 1<sup>st</sup> respondent directing the petitioners to pay one month EMI to the tune a sum of Rs.18,715/-, Rs.21,375/- and Rs.36,393/-, respectively.

2. It is submitted by the learned counsel appearing for the petitioners that the demand notice was received by the petitioners on 13.05.2020 during Covid-19 first wave. At the relevant point of time, the Reserve Bank of India by Circular dated 27.03.2020 extended the benefit of moratorium for the period from 01.03.2020 to 31.05.2020. Since the demand notice issued in respect of the period covered by circular of the Reserve Bank of India, the same is not sustainable in law. The learned counsel also relies on the decision of the Hon'ble Apex Court in *Small Scale Industrial Manufactures Association vs. Union of India* reported in (2021) 8 SCC 511 and submitted that the 1<sup>st</sup> respondent is not entitled to charge any penal interest for the above said period.

3. Mr.L.P.Shanmugasundaram, learned counsel appearing for the 1<sup>st</sup> respondent by taking this Court to the counter affidavit filed by the 2<sup>nd</sup> respondent, submitted that the Reserve Bank of India issued a circular

extending moratorium to all debtors for three months from March-2020 to May-2020. The said Reserve Bank of India's circular is applicable to all banks including co-operative banks. It is also stated in the counter affidavit filed by the 2<sup>nd</sup> respondent that he issued instructions on 15.05.2020 stating that the Reserve Bank of India Circular dated 27.03.2020 is applicable to all Employees Co-operative Societies. Therefore, the 1<sup>st</sup> respondent cannot insist the petitioners to pay the amount as per the impugned demand notice.

4. In *Small Scale Industrial Manufactures Association vs. Union of India* reported in (2021) 8 SCC 511 the Hon'ble Apex Court while considering the scope of circular issued by Reserve Bank of India observed as follows:-

*“103. However, it is directed that there shall not be any charge of interest on interest/compound interest/penal interest for the period during the moratorium and any amount already recovered under the same head, namely, interest on interest/penal interest/compound interest shall be refunded to the borrowers concerned and to be given credit/adjusted in the next instalment of the loan account. ...”*

5. In view of the law laid down by the Hon'ble Apex Court, the three

instalments payable by the petitioners during moratorium period has to be paid by the petitioners and the 1<sup>st</sup> respondent is not entitled to collect any penal interest for the delayed payment.

6. With this clarification, the writ petitions are disposed of. No costs.  
Consequently, the connected miscellaneous petitions are closed.

**24.08.2023**

Index : Yes/No  
Speaking order: Yes/No  
Neutral Citation: Yes/No  
dm  
To

The Registrar of Cooperative Societies,  
No.170, EVR Periyar High Road,  
Kilpauk, Chennai – 10.

W.P.Nos.7729, 7731 and 7732 of 2020

**S.SOUNTHAR, J.**

dm

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