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WP Nos. 26414 of 2018 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

CORAM

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. Nos. 26414, 26415, 26418 & 26423 of 2018

S.Jothimahalingam	.. Petitioner in W.P.No.26414 of 2018
S.Somasundaram	.. Petitioner in W.P.No.26415 of 2018
S.Balathandayutham	... Petitioner in W.P.No.26418 of 2018
S.Bala Veeraraghavan	... Petitioner in W.P.No.26423 of 2018

Versus

1. Union of India
Represented by its Secretary
Ministry of Agriculture and Farmers' Welfare,
Krishi Bhawan, New Delhi – 100 00.
2. Government of Tamil Nadu,
Represented by the Secretary,
Agriculture Department,
Secretariat, Chennai-9.
3. The District Collector,
Nagapattinam District, Nagapattinam,
4. The New India Assurance Company Ltd.,
Rep. By its Regional Manager,
Spencer Towers, III Floor,
Anna Salai, Chennai-2.
5. Kumbakonam Central Cooperative Bank,
No.2, TSR Big Street, Kumbakonam.



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6. Keelayur Primary Agricultural Cooperative Society, Keezhaiyur Post, Kilvelur Taluk, Nagapattinam District.
(R5 and R6 impleaded vide order dated 16.02.2023 made in WMP.No.24452/2022 in WP.No. 26414 of 2018 by this Court)

.. Respondents in all the petitions

WP No. 26414 of 2018:- Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 2,3 and 4 to pay insurance compensation amount at the rate of 97.90% as assessed by the competent committee comprising 2nd and 4th respondents and pay the balance sum of Rs.84,835/- to the petitioner which is remaining after adjusting the sum of Rs.77,649/- already paid.

WP No. 26415 of 2018:- Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 2,3 and 4 to pay insurance compensation amount at the rate of 97.90% as assessed by the competent committee comprising 2nd and 4th respondents and pay the balance sum of Rs.92,146/- to the petitioner which is remaining after adjusting the sum of Rs.81,333/- already paid.

WP No. 26418 of 2018:- Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 2,3 and 4 to pay insurance compensation amount at the rate of 97.90% as assessed by the competent committee comprising 2nd and 4th respondents and pay the balance sum of Rs.2,10, 537/- to the petitioner which is remaining after adjusting the sum of Rs.1,85,763/-/- already paid.

WP No. 26423 of 2018:- Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents 2,3 and 4 to pay insurance compensation amount at the rate of 97.90% as assessed by the competent committee comprising 2nd and 4th respondents and pay the balance sum of Rs.1,77,427/- to the petitioner after adjusting the amount already paid.



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For Petitioners : Mr.K.S.Narayanan (In all the petitions)

For Respondents : Mr. K.B.Arul R1
Mr.A.S.Subramanian R4
Mr.E.Vedabagath singh RR2 & 3
Mr.S.Ravikumar
(In all the petitions)

COMMON ORDER

The writ petitions have been filed seeking a direction to the respondents 2,3 and 4 to pay insurance compensation amount at the rate of 97.90% as assessed by the competent committee comprising 2nd and 4th respondents and pay the balance sum to the petitioner after adjusting the amount already paid.

2. It is the grievance of the petitioners that they are owning the agricultural lands at Madapuram Village, Thirukkuvalai Taluk, Nagapattinam District and they are doing agriculture in the said lands. Such being the position, in order to safeguard and protect the interests of the agriculturists of the country, the Government of India has formulated a insurance scheme which is known as PRADHAN MANTRI FASAL BIMA YOJANA (hereinafter referred to as "PMFBY"). As per PMFBY scheme, a notification was issued by the Government of Tamil Nadu covering the entire regions in the State of Tamil Nadu except the city of Chennai assuring compensation



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equivalent to a sum of Rs.25,000/- per acre of land on payment of a sum of Rs.375/- as insurance premium per acre by farmers. The 4th respondent herein, an undertaking of Government of India is selected for insurance purposes. Accordingly, the petitioners have remitted their insurance premium through the 6th respondent. During the year 2016 and 2017, the petitioners suffered a natural disaster, due to which, they lost their crops. Hence, the petitioners made a claim for payment of compensation under the insurance scheme. The Government has assessed the loss at 97.90/- to the above said village. Unfortunately, the petitioners received only 45.89% of the total damage that was suffered by them. The petitioners also made a representation to the respondents in this regard. However, there was no response from the respondent and left with no other option, the present writ petitions have filed before this Court.

3. When the matter is taken up for hearing, the learned Government Counsel submitted that *as per Clause-XVI, disputed claims/sub-standard claims, if any will be referred within three months of claim disbursement through SLCCCI/State Government to DAC & FW for consideration and decision of DAC & FW in case of any interpretation of provisions of scheme or dispute will be binding on State Government/Insurance Company/Banks*



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and the farmers.

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4. In view of the above said clause, if the petitioners have any grievance, they have to make a claim before the Department of Agriculture, Cooperation and Farmers Welfare (DAC &FW) for consideration. Therefore, the learned counsel prays that this court may issue a direction to the petitioners to make a claim before the DAC &FW within the reasonable time as fixed by this Court.

5. Heard the learned counsel for either side and perused the materials available on record.

6. The facts of the case are not in dispute. The petitioners have suffered a huge loss due to flood in the year 2017 and they seek for compensation under the above said insurance scheme viz., PMFBY scheme. It is an admitted fact that the petitioners have paid the premium amount for the scheme to the 5th respondent through the 6th respondent. The Government have also assessed the percentage of loss to the petitioners agricultural land and however, the respondents have paid very meagre amount. Such being the case, the claim made by the petitioners are disputed question of fact and the same cannot be



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decided by this Court by exercising its jurisdiction under Article 226 of the Constitution of India. As rightly pointed out by the learned Government Counsel that if the petitioners have any grievance, they have to approach the DAC &FW. Without doing so, the petitioners have filed the writ petitions, which is not sustainable.

7. In such view of the matter, this Court directs the petitioners to make an application before the DAC &FW in this regard within a period of two weeks from the date of receipt of a copy of this order. Upon receipt of such application, the DAC &FW shall consider the said application and pass appropriate orders after providing opportunity to the petitioner as well as the aggrieved persons if any, including the 4th respondent, on merits and in accordance with law, within a period of eight weeks, thereafter.

8. With the above directions, the writ petitions are disposed of. No costs.

08.03.2023

Index : Yes/No

Internet : Yes/No

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- To
1. Union of India
Represented by its Secretary
Ministry of Agriculture and Farmers' Welfare,
Krishi Bhawan, New Delhi – 100 00.
 2. Government of Tamil Nadu,
Represented by the Secretary,
Agriculture Department,
Secretariat, Chennai-9.
 3. The District Collector,
Nagapattinam District, Nagapattinam,



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M. DHANDAPANI, J

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