BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.1632 of 2021

G.Kumar ... Petitioner

Vs.

1.The District Collector,
Sivagangai,
Sivagangai District.

2.The Joint Director of Agriculture,
Office of the Joint Director of Agriculture,
Sivagangai.

3.The Manager,
ICICI Lombard General Insurance Company Limited,
First Floor, Northern Side, Plot No.5, A.A.Towers,
S.S.Colony,
By Pass Road,
Madurai,
Madurai District.

4.The State Bank of India,
Manamadurai Branch,
Sivagangai District. ... Respondents

(R-4 is suo motu added vide Court Order dated 10.10.2023 in W.P.(MD).No.1632 of 2021)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 09.12.2020 to consider and pass orders within the time fixed by this Court to release the Crop Insurance for the period 2016-2017 and pass appropriate order within the time as stipulated by this Court.

For Petitioner : Mr.N.Tamilmani

For R-1 and R-2 : Mr.A.K.Manikkam
Special Government Pleader

For R-3 : Mr.P.PethuRajesh

For R-4 : Mr.G.Radhakrishnan
Standing Counsel

ORDER

When the matter came up for hearing on 24.11.2023, this Court passed the following order:

This writ petition was filed for a direction to the respondents to consider the representation made by the petitioner on 09.12.2020, wherein the petitioner is seeking for the payment of insurance amount for the period 2016-2017.

2. The case of the petitioner is that he is an agriculturalist, who has insured crops under the Prime Minister Crop Insurance Scheme (PMFBY). The further case of the petitioner is that the premium is paid to the third respondent insurance company through the fourth respondent bank and that the premium for the crop insurance for the period 2016-2017 was also paid by the petitioner.

3. The grievance of the petitioner is that the crop insurance amount was settled for the years 2017-2018 and 2019-2020 and whereas the insurance amount for the period 2016-2017 was not paid to the petitioner. According to the petitioner, the premium amount was paid to the third respondent through the Nodal Bank namely, viz., the fourth respondent and the form was also submitted before the third respondent insurance company and inspite of the same, the insurance amount was not paid to the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

4. The learned counsel appearing for the third respondent insurance company submitted that the application as well as the premium amount must be routed through the Nodal Bank viz., the fourth respondent bank and insofar as the year 2016-2017 is concerned, no such application and premium amount reached the third *respondent insurance company. In view of the same, the insurance amount was not paid to the petitioner.*

5. Per contra, the learned counsel appearing for the fourth respondent bank submitted that the premium as well as the application were directly submitted before the third respondent insurance company and the insurance amount is ultimately credited in the Nodal Bank, where the petitioner is having a savings bank account. The learned counsel also pointed out to the communication dated 03.08.2019 made by the fourth respondent bank to the insurance company to the effect that complaint has been given by the petitioner towards non-settlement of the insurance amount for the period 2016-2017 and the complaint was forwarded along with annexures to the third respondent insurance company.

6. This Court wants to ascertain the procedure that is being normally followed in these cases. The stand taken by the third and fourth respondents are mutually contradicting each other and hence, this clarity is required. This is more so, since the insurance amount for the period 2017-2018 and 2019-2020 was paid to the petitioner and this Court wants to know as to how these claims were paid and why the insurance amount for the period 2016-2017 alone was not paid to the petitioner.

7. The learned counsel appearing for the fourth respondent bank seeks for sometime to take instructions in *this regard.*

8. Post this case under the same caption on 01.12.2023.

2. When the mater was taken up for hearing today, the learned counsel appearing on behalf of the fourth respondent Bank submitted that the petitioner is a non-loanee farmer and he had directly submitted the insurance proposals to the third respondent Insurance Company. While doing so, the premium amount of a sum of Rs.5885/- was transferred from the savings Bank account maintained by the petitioner in the fourth respondent Bank to the account of the third respondent Insurance Company.

3. The learned counsel appearing on behalf of the third respondent Insurance Company submitted that there is a procedure that is contemplated under the operational guidelines issued under PMFBY (Pradhan Mantri Fasal Bima Yojana). As per the procedure, the farmers will submit the relevant forms along with the declaration only to the Nodal Bank and the premium amount must also be paid only to the Nodal Bank. The Nodal Bank must prepare a consolidated statement along with the premium amount that is remitted by the farmers and it must be submitted to the Insurance Company within the

stipulated time. If the Nodal Bank does not follow this procedure or the Bank fails to remit the necessary forms and premium within the stipulated time, it is only the Nodal Bank which is responsible for the payment of the claims made by the farmers. To substantiate the same, the learned counsel for the third respondent Insurance Company relied upon clause 4(x) and sub clause 13(x) of the operational guidelines.

4. Per contra, the learned counsel for the fourth respondent Bank submitted that the petitioner is a non loanee farmer and he has the option to take insurance cover and it is not compulsory like in the case of a loanee farmer. The learned counsel submitted that the procedure that was explained by the learned counsel for the third respondent Insurance Company will apply only for the loanee farmer. Insofar as a non loanee farmer is concerned, the sub clause 10(x) will apply. The learned counsel submitted that for a non loanee farmer, they can submit their insurance proposals directly to the Insurance Company through the online portal. In the instant case, since the petitioner was a non loanee, he had adopted this procedure and therefore, the Nodal Bank had no role to play insofar as the claim made by the petitioner for the period 2016-2017.

5. In reply to the above submissions, the learned counsel for the third respondent Insurance Company by placing reliance upon sub clause 8(x) submitted that even insofar as non loanee farmers are concerned, the Insurance Company receives the proposals and premium amount only through designated agencies / channel partners / insurance intermediaries. The learned counsel submitted that there is absolutely no indication in the entire materials that has been placed before this Court that the petitioner has paid the premium and had submitted the insurance proposals through any intermediary. In view of the same, the claim made by the petitioner cannot be settled by the third respondent Insurance Company.

6. There is no dispute with regard to the fact that the petitioner is a non loanee farmer. The proposal that was submitted by the petitioner to the third respondent Insurance Company is available in page no.1 of the typed set of papers. It is also seen that the premium amount has been directly paid to the third respondent Insurance Company on 30.11.2016 through NEFT from the Bank account maintained by the petitioner in the fourth respondent Bank. What is not clear from the affidavit filed in support of the Writ Petition and also the materials placed before this Court is as to who had acted as the channel partner /

intermediary, who had facilitated the insurance proposal of the petitioner to the third respondent Insurance Company.

7. It is too late in the day to undertake the process of finding out who was the intermediary, who had acted as a guide and facilitated the petitioner while submitting the insurance proposals to the third respondent Insurance Company. The fact remains that the petitioner had submitted the application to the third respondent Insurance Company and had also paid the premium amount through NEFT, within the stipulated time. In view of the same, the petitioner cannot be deprived of the claim amount just because it is not clear as to who acted as the intermediary to the third respondent Insurance Company.

8. It must be borne in mind that the Court is dealing with the grievance of an agriculturalist who had suffered loss during the period 2016-2017. The same petitioner had received the crop insurance amount for the period 2017-2018 and 2019-2020. Therefore, the petitioner had followed a particular procedure for submitting the proposal form and also paid the premium and just because there is no clarity on the intermediary, the petitioner should not be deprived of the claim made by him for the period 2016-2017. After all, the procedure is only a handmaid to justice and a procedure should not subsume the substantial right

that is available to the farmer for claiming the insurance amount. In other words, a procedure should not defeat the rightful claim made by the petitioner.

9. In the light of the above discussion, this Court is convinced that the petitioner has properly submitted the proposal form and had also paid the premium amount before the third respondent Insurance Company. Therefore, the petitioner will be entitled for the insurance amount for the period 2016-2017. Consequently, there shall be a direction to the third respondent to settle the insurance amount to the petitioner for the period 2016-2017 within a period of four (4) weeks from the date of receipt of a copy of this order.

10. This Writ Petition is disposed of in the above terms. No costs.

06.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr

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N.ANAND VENKATESH, J.

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