BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.7180 of 2021

K.Baranitharan ... Petitioner

-vs-

1.The District Collector,
Thenkasi District, Thenkasi.

2.The Joint Director of Agriculture,
No.178A, TNHB Colony, Near Uzhavar Santhai,
Thenkasi, Thenkasi District.

3.The Manager,
Govt. Business Group,
ICICI Lombard General Insurance Company,
No.140, Chottabhai Centre 3rd Floor,
Nungambakkam High Road,
Nungambakkam, Chennai 34.

4.The Branch Manager,
Pandiyan Grama Bank,
(Now) Tamil Nadu Grama Bank, Maipparai Branch,
4/22, Middle Street, Maiparai,
Thiruvengadam Taluk,
Thirunelveli – 627713. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to pay the Crop Insurance amount to the Maize Crop for the year 2017-2018 (Rabi) to the petitioner along with interest within the stipulated period as fixed by this Court and consequently, to consider the petitioner's representation dated 13.05.2019.

For Petitioner	:	Ms.V.Sebastinal Preethi
For R1 and R2	:	Mr.R.Ragavendran Government Advocate
For R3	:	Mr.P.Pethu Rajesh
For R4	;	Mr.N.Dilipkumar

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the respondents to pay the crop insurance amount to the petitioner for the year 2017-2018, within the time frame fixed by this Court, by considering the representation made by the petitioner on 13.05.2019.

2. The case of the petitioner is that he is an agriculturist and he is cultivating Maize, Black Gram, etc. at Kulakattakuruchi Village, Thiruvengadam Taluk, Tenkasi District. The further case of the petitioner is that he has paid the crop insurance premium for Black Gram and Maize to the fourth respondent. There was failure of monsoon and the area was declared as affected by drought. The petitioner made a claim for the crop insurance amount. Since the same was not considered, the present Writ Petition has been filed before this Court.

3. When the matter came up for hearing on 17.10.2023, this Court directed the learned counsel for the fourth respondent to take instructions and to place necessary details before this Court.

4. When the matter was taken up for hearing today, the learned counsel appearing on behalf of the fourth respondent has filed a counter affidavit and the relevant portions in the counter affidavit are extracted hereunder:-

> *"4. I submit that as per section 24.1 in the Revamped Operational Guidelines of Pradhan Mantri Fasal Bima Yojana, Insurance Companies should have received the premium for coverage either from the bank, channel partner, insurance intermediary or directly. In case of any loss in transit due to negligence by these agencies or non-remittance of premium by these*

agencies, the bank/intermediaries concerned shall be liable for payment of claims.

5. I submit that copies of Demand Draft taken by the writ petitioner in the name of ICICI Lombard General Insurance Company Ltd. for Rs. 8389/- and cash receipt for Rs, 8439/- including exchange of Rs.50/- from Pandyan Grama Bank, Thiruvengadam, dated 28.12.2016, were enclosed by the writ petitioner. Whether the Demand Draft for the premium amount handed over by the writ petitioner in the Maipparai Branch of Tamil Nadu Grama Bank (erstwhile Pandiyan Grama Bank) was sent to the insurance company along with declaration is not known. Crop wise area cultivated by the writ petitioner and area insured by the writ petitioner along with survey number particulars were not given by the writ petitioner.

6. I submit that if the premium amount given by the farmers in the TNGB, Maiparai Branch reached the Insurance Company, then the responsibility of paying claim is with the Insurance Company if yield loss is there in the village based on Crop Cutting Experiments as per the guidelines of PMFBY. If any error committed by Tamil Nadu Grama Bank is the reason for non-settlement of claim to the writ petitioner, then the Tamil Nadu Grama Bank is responsible."

5. Heard the learned counsel appearing for the parties.

6. The stand taken by the fourth respondent is that the petitioner had routed the insurance premium amount by drawing a Demand Draft for a sum of Rs.8,389/-, dated 28.12.2016. The cut off date was 31.12.2016. According to the fourth respondent, the petitioner was directed to submit the requisite documents and the petitioner failed to produce the documents and hence, the crop insurance application was returned back to the petitioner along with the Demand Draft. In the light of this stand taken by the fourth respondent, it is clear that the insurance amount has not paid to the third respondent and as a consequence, there is no question of directing the third respondent to settle the crop insurance amount to the petitioner.

7. The learned counsel for the petitioner submitted that as per the guidelines under the Pradhan Mantri Fasal Bima Yojana [PMFBY], if any mistake is committed by the fourth respondent, which has resulted in the non-settlement of the claim amount, it is the fourth respondent, who must be made responsible for the loss sustained by the petitioner. The learned counsel further submitted that the petitioner had already handed over the Demand Draft along with all the necessary documents and if the fourth respondent has not paid the premium amount to the third respondent, then, the fourth respondent alone is responsible for settling the loss incurred by the petitioner.

8. Per contra, the learned counsel appearing on behalf of the fourth respondent submitted that the application and the premium amount was not submitted before the third respondent for want of certain documents, which were not furnished by the petitioner and in the mean time, the cut off date on 31.12.2016 had already reached and therefore, the application along with the Demand Draft was given back to the petitioner. Therefore, it was contended that there was no negligence on the part of the fourth respondent in order to make the fourth respondent liable for the loss sustained by the petitioner.

9. In the considered view of this Court, the dispute, that has now been raised by the petitioner against the fourth respondent, is a disputed question of fact. This issue cannot be gone into in this Writ Petition. In any case, the scope of this Writ Petition is not to decide the dispute between the petitioner and the fourth respondent and the scope is confined only to the claim made by the petitioner for the crop insurance amount from the third respondent. Now, it has been brought to the notice of this Court that the premium amount itself has not reached the third respondent and hence, there is no question of directing the third respondent to pay the amount.

10. In view of the above discussion, it will be left open to the petitioner to make a claim to the fourth respondent, if according to the petitioner, there is negligence/default on the part of the fourth respondent. On receipt of this claim from the petitioner, the fourth respondent shall consider the same and respond to the claim made by the petitioner. This process shall be completed by the fourth respondent within a period of four weeks from the date of receipt of the representation/claim made by the petitioner. If ultimately, the fourth respondent denies their liability, the petitioner can put the same to challenge in the manner known to law. Except giving this leverage, no further orders can be passed in this Writ Petition.

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

NCC : Yes/No
Index : Yes/No
smn2

07.11.2023

To

1.The District Collector,
Thenkasi District, Thenkasi.

2.The Joint Director of Agriculture,
No.178A, TNHB Colony, Near Uzhavar Santhai,
Thenkasi, Thenkasi District.

N.ANAND VENKATESH, J.

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