



W.P(MD)No.88 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.88 of 2015

A.1244, Rajapalayam Agricultural Producers
Cooperative Marketing Society Ltd.,
No.291, Mudangiyaru Road,
Rajapalayam - 626 117,
Virudhunagar District,
Rep by its President.

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by Secretary to Government.
Department of Handlooms and Textiles,
Ministry of Handlooms, Handicrafts, Textiles and Khadi,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Secretary to Government,
Finance Department,
Ministry of Finance,
Secretariat, Fort St. George,
Chennai 600 009.
- 3.The Director of Handlooms and Textiles,
Kuralagam, 2nd Floor, Chennai 600 108.
- 4.The Karur District Cooperative Spinning Mills Ltd.,
(Previously called as Tiruchi District

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Cooperative Spinning Mills Ltd.)
No.MM.301, Malaikovilur, Moolpatti - 639 109,
Karur District, Rep by its Administrator / Liquidator /
Assistant Director of Handlooms,
Karur District, Karur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by 4th respondent in No.13/c.e.P.k.c/2014 dated 01.04.2014 quash the same and consequently direct the respondents to pay interest amount to the petitioner society upon the amount of Rs.25,92,718.45, which was due from the 4th respondent spinning mill as mentioned in the orders passed by this Court in WP(MD)No.12316 of 1999.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.D.Gandhiraj,
Spl. Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned
Special Government Pleader for the respondents.



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2.The writ petitioner is a registered cooperative society. Its business is to market the agricultural produce supplied by its members. The petitioner had effected supplies to the fourth respondent mill till 1994. The petitioner had a running transaction till then. The fourth respondent had committed default. The petitioner therefore initiated arbitral proceedings on the file of the Deputy Registrar of Cooperative Societies, Srivilliputhur. Vide award dated 28.07.1995, the fourth respondent was directed to pay a sum of Rs.29,74,342/- with interest at 18.5% per annum. It is not as if the petitioner was a solitary claimant. It is not as if the fourth respondent was a solitary defaulter. Several cooperative spinning mills throughout Tamilnadu were in similar position of default. One Kanniah Raj filed public interest litigation (W.P.No. 12316 of 1999) before the Madras High Court. Pursuant to the interim orders passed by the High Court, the principal amounts payable to various supplier / societies came to be settled.

3.The societies had a practice of advancing loan against the supplies received. The supplier / societies in turn had a financing



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arrangement with the Federation. The societies were obliged to pay interest for the loan received from the Federation at 18% per annum. The learned counsel for the petitioner states that this interest burden was borne by the petitioner herein. Taking into account this aspect of the matter, the Hon'ble First Bench appointed Shri.Vendantham Srinivasan, a doyen of the Madras Bar as arbitrator to decide the quantum of interest payable to the various supplier / societies. The learned arbitrator heard the parties and directed the spinning mills to pay interest computed at the rate of 18% per annum with effect from 01.07.1996.

4.The petitioner submitted a request to the fourth respondent to pay the interest amount to them. The fourth respondent had by then gone into liquidation. The liquidator vide communication dated 01.04.2014 informed the petitioner that the claim stood time barred and since no specific direction was set out in the award passed by the learned Arbitrator in this regard, the question of paying interest to the petitioner does not arise. This communication is put to challenge in this writ petition.



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5.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned communication and grant relief as prayed for.

6.The respondents have filed counter affidavit and the learned Special Government Pleader took me through its contents. The learned Special Government Pleader pointed out that the award passed by the learned Arbitrator had been honoured in letter and spirit. The petitioner's claim did not figure anywhere in the arbitral award. That apart, a claim has to be made within the period of limitation. In this case, the petitioner had lodged their demand for payment of interest after a gap of more than ten years. According to the learned Special Government Pleader, the impugned communication deserves to be sustained. He pressed for dismissal of the writ petition.

7.I carefully considered the rival contentions and went through the materials on record. No doubt, the submissions advanced by the learned Special Government Pleader are sound and attractive. But the equity



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obtaining in this matter cannot be lost sight of. The petitioner is a registered cooperative society. It supplied agricultural produce (cotton) to the fourth respondent cooperative spinning mill. As already pointed out, similarly placed cooperative societies received not only the principal amount but also interest calculated at the rate of 18% per annum. It is beyond dispute that the entire liability was borne by the Government. There is absolutely no reason to discriminate the petitioner alone. The learned counsel for the petitioner drew my attention to the fact that the petitioner's claim was specifically set out in the annexure filed by the public interest litigant / Kanniah Raj. The petitioner's claim is figuring at S.No.84 in annexure F and G. Pursuant to the direction given by the Hon'ble First Bench, the fourth respondent settled the principal amount to the petitioner herein. I am not able to understand as to how the petitioner's claim was left out when the Arbitrator passed the award. It is interesting to note that the petitioner had supplied not only to the fourth respondent but also to Pudukkottai District Cooperative Spinning Mills, Aranthangi. Insofar as Aranthangi mill, the petitioner's claim was mentioned at S.No.84 in annexure G. The petitioner received not only the principal amount but also the interest therefor. Hence, there is no



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reason as to why, the interest was not paid on the principal amount owed by the fourth respondent to the writ petitioner herein. These are matters in which the equality principle set out under Article 14 of the Constitution of India will have to be applied. I take judicial notice of the fact that the petitioner would have paid a huge sum towards interest to the federation. The petitioner had utilized the funds received from the federation by advancing loans to its members. In fact, interest burden alone comes to close to Rs.30 Lakhs.

8.It appears that the fourth respondent is not in a position to pay interest amount to the petitioner as of now. Even originally, it was the Government which made available the requisite fund. I, therefore, direct the first respondent to pay the interest amount payable to them as was settled in the case of others. Of course, the petitioner will not be entitled to any interest on interest or interest for belated payment. It is because the society has to blame itself. The society had not approached the authorities in time. Therefore, the first respondent will step into the shoes of the arbitrator and pass a hypothetical award. It is a matter of simple arithmetic calculation. Whatever amount which the arbitrator



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would have ordered to be paid shall be paid to the petitioner herein within a period of twelve weeks from the date of receipt of a copy of this order. That amount so quantified shall not carry any interest.

9.This writ petition is allowed on these terms. No costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The Secretary to Government.
Department of Handlooms and Textiles,
Ministry of Handlooms, Handicrafts, Textiles and Khadi,
Secretariat, Fort St. George, Chennai - 600 009.
- 2.The Secretary to Government, Finance Department,
Ministry of Finance, Secretariat, Fort St. George,
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The Karur District Cooperative Spinning Mills Ltd.,
(Previously called as Tiruchi District
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G.R.SWAMINATHAN, J.

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