In the High Court of Judicature at Madras

Reserved on: 21.03.2024

Delivered on : 03.06.2024

C O R A M

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.Nos.20828 and 31811 of 2015

1.T.S.Balakrishnan
2.B.Avayambal
3.V.Lakshminarayan

...Petitioners in W.P.No.20828/2015

V.Ravichandran

... Petitioner in W.P.No.31811 of 2015

-Vs-

1.Agricultural Insurance company of India Ltd,
13th Floor, 'Ambadeep'
No.14, Kasturba Gandhi Marg
Connaught Palace, New Delhi 110 001
having Regional Office at
No.323 (Old No.156) Andhra Insurance Buildings,
1st Floor, Thambu Chetti Street,
Chennai 600 001.

2.Grievance Redressal Officer (GRO)
/ Appellate Authority (CGRO)
Agricultural Insurance Company of India Ltd.,

No.323 (Old No.156) Andhra Insurance Buuildings,
1st Floor, Thambu Chetti Street,
Chennai 600 001.

3.Insurance Ombudsman Tamil Nadu and Pondicherry
At Chennai Fathima Akthar Court, 4th Floor,
453, Anna Salai, Teynampet,
Chennai 600 018.

... Respondents in W.P.no.31811 of 2015

1.Agricultural Insurance company of India Ltd,
13th Floor, 'Ambadeep'
No.14, Kasturba Gandhi Marg
Connaught Palace, New Delhi 110 001
having Regional Office at
No.323 (Old No.156) Andhra Insurance Buildings,
1st Floor, Thambu Chetti Street,
Chennai 600 001.

2.State of Tamil Nadu rep.by its
Secretary to Government,
Agriculture Department,
Fort.St.George, Chennai 600 009.

3.Director of Agriculture
Chepauk, Chennai 600 005. ...Respondents in W.P.No.20828/2015

PRAYER in W.P.No.20828 of 2015 : Writ Petition filed under Article 227 of Constitution of India, to issue a writ of Mandamus directing the 1st respondent to pay compensation at 75.82% of the claim amount, in accordance with the National Agricultural Insurance Scheme without applying the 'area factor'.

PRAYER in W.P.No.31811 of 2015 : Writ Petition filed under Article 227 of Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records of the 3rd respondent in Award No.10/(CHN)/A/GI/0145/2014-15 dated 23.02.2015 and quash the same and consequently direct the 1st respondent to pay a sum of Rs.2,31,825/- with interest @ 24% p.a from 31.05.2014 namely the date of the claim made by the petitioner till date of payment.

For Petitioner in W.P.No.20828/2015 : Mr.Niranjan Rajagopal

For Petitioner in W.P.No.31811/2015 : Mr.K.Chandrasekaran

For R1 in both petitions : Mr.Su.Srinivasan, ASGOI

For R2 to 3 in W.P.No.20828/2015: Mr.P.Muthukumar, AAG
assisted by
Mr.S.J.Mohamed Sathik

For R2 to R3 in W.P.No.31811/2015: Mr.P.Muthukumar, AAG
assisted by
Mrs.C.Meera Arumugam, AGP

COMMON ORDER

These Writ Petitions are filed against the award of the 3rd respondent, whereby the claim of the petitioner for compensation, was rejected. Further these petitions are also filed seeking direction to the respondents to pay compensation to the petitioners in accordance with the National Agricultural Insurance Scheme on 'area insured' basis, without calculating compensation amount on the basis of 'area factor'.

2.1. The case of the petitioners in W.P.No.20828/2015 is that they are owning agricultural lands in Thuthukudi, Manavalampettai, Thirukandeeshwaram Villages of Nannilam Firka to an extent of 52.09 acres (1st petitioner), 38.16 acres (2nd petitioner) and 9.58 acres (3rd petitioner). It is contended by the petitioners that the crops in the above said lands are insured with the 1st respondent under the National Agricultural Scheme, since the year 2008-09 and the premium has been paid for the relevant years concerned i.e., 2012-13. In the year 2012-13, the 2nd respondent / State Government declared a drought in the area of Nanilam Firkha. Thereby, the petitioners are entitled for compensation under the National Agricultural Scheme.

2.2. It is contended by the petitioner that the claim percentage for the year 2012-13 for Nanilam Firkha was to be 75.82%, however it was shocked to learn that the claim amount was admitted by the respondents only to an extent of 31.70%. The petitioner made a complaint in this regard to the Grievance Redressal Officer of the 1st respondent Insurance Company for their relief. In response, the 1st respondent Insurance Company brought to their notice a new system of 'area factor' and the manner in which it is applied. The calculation method stated by the 1st respondent is not part of the scheme and it has been arbitrarily applied.

2.3. Further, the petitioner states that as per the 1st respondent's calculation, the petitioners were determined to be compensated only at 31.7%. Against which, the petitioners have preferred appeal to the Appellate Officer/ Chief Grievance Redressal Officer, who vide proceedings dated 05.01.2015, reiterated the findings of the Grievance Officer of the 1st respondent Company. The petitioners also preferred a complaint dated 28.01.2015, before the Insurance Ombudsman, Chennai, regarding the discrepancies arising out of the new term 'area factor'. The Insurance Ombudsman has passed an award dated 23.02.2015, holding that it does not find any scope for rendering any assistance to the Complainant in getting relief from the insurer in respect of the loss of crop yield during the season as stated in their complaint. Aggrieved by the non issuance of compensation at 75.82% of the claim amount, the petitioners have filed W.P.No.20828 of 2015.

3.It is averred in the writ petition in W.P.No.31811 of 2015 that the petitioner is an agriculturist owning cultivable Nanja lands in the Poongulam Village, Nannilam Taluk. The petitioner has insured his crops over an extent of 11.71 acres for the year 2012-13 under National Agricultural Insurance Scheme, which Scheme is floated by Ministry of Agriculture. The petitioner has also paid premium for the relevant years.

4. It is further stated by the petitioner that there was a huge shortfall in the yield for the season 2012-13 and sustained heavy loss. The petitioner is entitled to compensation for a sum of Rs.3,81,186/- under the National Agricultural Insurance Scheme, however he was paid only Rs.1,49,361/-. The petitioner made an enquiry under RTI before the 1st respondent, where the said authority by letter dated 28.02.2014, rejected the claim of the petitioner by bringing to their notice a new system of 'area factor' and the manner in which it is applied and further stated that the consent of the State Government was sought for to calculate the compensation on the basis of area factor and not on the basis of actual area cultivated and insured. Against which, the petitioner

also made a claim for the balance of amount before the 1st respondent on 31.05.2014, but the same was also negatived by order dated 03.11.2014.

5. The petitioner also preferred a claim before the 3rd respondent by way of complaint, however, the 3rd respondent by Award dated 23.02.2015, rejected the claim of the petitioner. Challenging the rejection order of the 3rd respondent, the petitioner has filed W.P.No.31811 of 2015.

6. The learned Additional Solicitor General of India submitted that the petitioner is challenging the provisions of a National Agriculture Insurance Scheme (NAIS). The 1st respondent is only the implementing Insurance Company whose role is to provide insurance coverage as envisaged in the Scheme. As per the said Scheme, the claim was calculated for the season 2012-13 of Nannilam Firka and has disbursed the claim amount without undue delay on the part of the respondents. Further, he would state that if at all the petitioners are aggrieved, they can approach the Redressal Committee for their grievance.

7. The learned counsel for the respondents 2 and 3 would state that the agreement under the Scheme is a contractual obligation and if there is any

deviation, the petitioner can go before the Civil Court or Redressal forum, and not before this Court.

8. Heard both sides and perused the records carefully.

9. A perusal of the entire facts of the case would go to show that the petitioners' crops in the said lands are insured with the 1st respondent under the National Agricultural Scheme and paid premium for the same. The State Government declared a drought in the area of Nanilam Firkha, therefore, the petitioners are entitled for compensation under the National Agricultural scheme. According to the petitioners in W.P.20828/2015, the claim percentage is 75.82% however, the respondents admitted the claim amount to an extent of 31.70%. Admittedly the petitioners made a complaint to the Grievance Rederessal Officer for their relief. Thereafter, the petitioners in W.P.20828/2015 approached Insurance Ombudsman, however, the petitioners did not find any relief. Similarly, the petitioner in W.P.31811/2015 approached Agricultural Insurance Company of India and made enquiry under RTI. But his claim was rejected for compensation under National Agrcultural Insurance Scheme, by giving a finding that 'area factor' is the new system that operates and therefore, his claim is rejected. Against the rejection order, petitioner in WP.31811 of

2015 also approached Insurance Ombudsman, who also rejected the petitioner's claim.

10. It is settled proposition of law that terms and conditions of the Insurance Policy cannot be adjudicated in a writ proceedings. It is a contractual obligation between the parties. The petitioners paid the premium amount and agreed to abide by the terms and conditions of the Insurance Policy. Thus, in the event of any violation on either of the parties, the issues are to be restored by way of an adjudication based on the documents and through oral evidence. Such an exercise cannot be done in a writ proceedings by the High Court. The petitioners also has alternative remedy before the Consumer Forum.

11. In view of the foregoing reasonings, the petitioners, if aggrieved by the terms and conditions of compensation under the National Agricultural Scheme, it is open to them to approach appropriate forum for the purpose of adjudication of issues and for quantification of damages. With the above liberty, the writ petitions stand dismissed. No costs.

03.06.2024

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To

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3.Insurance Ombudsman Tamil Nadu and Pondicherry
At Chennai Fathima Akthar Court, 4th Floor,
453, Anna Salai, Teynampet,
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4.The Secretary to Government,
Agriculture Department,
Fort.St.George, Chennai 600 009.

5.Director of Agriculture
Chepauk, Chennai 600 005.

J.NISHA BANU, J.

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Pre-delivery Order

in **W.P.Nos.20828 and 31811 of 2015**

.06.2024