



W.P.(MD) No.19273 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD)No.19273 of 2018

and

W.M.P(MD)No.17103 of 2018

The Secretary - in Charge,
TRY (HSG) 19, Lalgudi Taluk Co-Operative
Housing Society Ltd.,
Lalgudi, Lalgudi Taluk,
Thiruchirappalli District.

.. Petitioner

Vs.

1.The Secretary to Government,
Housing and Urban Development Department,
Secretariat, Chennai - 7.

2.The Managing Director,
Tamil Nadu Co-Operative Housing Federation Ltd.,
Vepary, Chennai - 7.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 1st respondent to reimburse Rs.1,06,76,434.40 the waived amount towards the Housing Loans availed by the members of the petitioner society, with interest, penal interest, incidental charges, etc., as charged / chargeable by the 2nd



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respondent, from the date of due and until reimburse, by fixing a reasonable time.

For Petitioner : Mr.S.Seenivasagam

For R1 : Mr.A.Kannan
Additional Government Pleader

For R2 : Mr.S.Kumar

ORDER

This writ petition has been filed for the following relief :

“To direct the 1st respondent to reimburse Rs. 1,06,76,434.40 the waived amount towards the Housing Loans availed by the members of the petitioner society, with interest, penal interest, incidental charges, etc., as charged / chargeable by the 2nd respondent, from the date of due and until reimburse, by fixing a reasonable time.”

2. The petitioner is a Co-operative Housing Society registered under the Tamil Nadu Co-operative Societies Act and Rules framed thereunder. The 2nd respondent is the Managing Director of the Tamilnadu Co-operative Housing Federation Ltd. The petitioner society receives Financial Assistance from the 2nd respondent. The petitioner



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grants housing loans to its members at various rates of interest. It will be fixed at the rate of about 3% more than the borrowal rate. This margin will cover the establishment cost.

3. While so, vide G.O.Ms.No.113, Housing and Urban Development Department dated 20.05.2008, the Government had announced a 100% waiver scheme in favour of those who availed up to Rs.25,000/- belong to economically weaker sections. The Government had been issuing orders at regular intervals extending the benefits of the waiver scheme. According to norms laid down in the G.O, those who had availed Housing Loan above Rs.25,000/- up to Rs.1,00,000/-, belonging to lower income group would be granted the benefit of waiver to the extent of 50% of the interest component and total waiver in respect of penal interest, and for those who had availed loan above Rs.1,00,000/- upto Rs.2,00,000/-, 25% of the interest component and 100% of the penal interest would be waived and for those who had availed more than Rs.2,00,000/- upto Rs.7,00,000/-, 10% of the interest component and 100% of the penal interest would be waived. The waiver scheme



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announced by the Government was directed to be implemented by the Registrar of Co-operative Societies vide circular dated 21.05.2008. The petitioner Society acted on the said direction and returned the documents furnished as security to the borrowers. Thereafter, the petitioner represented to the second respondent federation for reimbursement of the waived amounts. The second respondent did not take action on the petitioner's request. The petitioner has been corresponding with the second respondent. Since no action has been taken by the respondents, this petition has been filed seeking a direction for reimbursement of a sum of Rs.1,06,76,434/- representing the waived amount.

4. The writ prayer is strongly contested not only by the Government but also by the second respondent Federation. The stand of the respondents is that Housing Societies like petitioner have been indiscriminate in disbursement of loans and the resultant loss cannot be passed on to the Government. That is why the Government had decided that the burden of penal interest will have to be borne by the Federation and the Housing Society in a particular ratio vide Letter No.



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8718/HCS1/2012-2015 dated 23.07.2013 and in the said letter, the Government has clarified that a conscious decision was taken not to bear the penal interest competent.

5. The learned Additional Government Pleader as well as the learned counsel for the Federation would point out that this letter has not been put to challenge in the writ petition. The respondents have called for the dismissal of the writ petition filed by the petitioner herein.

6. I have carefully considered the rival submissions and gone through the materials on record. It is not in dispute that the waiver Scheme for the benefit of borrowers from the Housing Loan Societies was announced by the Government vide G.O.Ms.,No.113 dated 20.05.2008 and extended vide G.O.Ms.No.37 dated 14.11.2008 and G.O.Ms.No.21 dated 09.02.2009 & G.O.Ms.No.236 dated 29.10.2010. The petitioner being a Housing Society was obliged to implement the aforesaid waiver scheme. It has accordingly passed on the benefit to the borrowers. Having directed the Housing Societies to grant the benefit of



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waiver, it is not open to the Government to now take the stand that it will not bear the burden. The Society did not grant the benefit of waiver on its own. It was mandated to do so. It would be an act of unfairness if the Government is permitted to wriggle out of its obligations.

7. The learned counsel for the respondents would point out that the petitioner has failed to challenge the Government Letter dated 23.07.2013 in which it was clearly stated that a subsequent decision was taken not to compensate the penal interest component. But it is settled principle of law that the Government letter cannot prevail over the Government order.

8. In any event, there is no logic in the stand of the respondents that as a result of granting loans to ineligible persons, the Societies have brought about financial ruin. That is because it is such ineligible borrowers who have been directly benefitted by the announcement of the waiver scheme. The respondents now contend that the person who disbursed loan should suffer. I find neither logic nor fairness in the stand



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subsequently taken by the respondents. There is again no merit in the contention that the subsequent stand of the Government was not questioned.

9. The learned counsel for the petitioner would point out that the Government letter dated 23.07.2013 was addressed to the Registrar of Cooperative Societies with a copy marked to the second respondent Federation. Likewise, the letter dated 26.02.2004, issued by the Registrar of Co-operative Societies was addressed to the Federation. There is nothing on record to indicate that these letters were served on the petitioner Society. The petitioner cannot be blamed for couching the writ prayer as one seeking issuance of Writ of Mandamus.

10. However, this petition cannot be straightaway allowed as prayed for merely because I have upheld the stand of the petitioner. As already pointed out, the Government had directed the burden of the penal interest to be borne by the Federation and the respective Societies in a particular ratio. The federation has not chosen to question the stand of the Government. It is also only the petitioner Society that has come



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forward with this Writ Petition. Therefore, the Government has to undertake the exercise of assessing the compensation payable to the petitioner so that the Society does not have to bear any burden arising out of the implementation of the waiver scheme. The petitioner is therefore directed to send a fresh representation to the respondents. It is open to the respondents to call for any further particulars as they deem fit and the reconsideration process shall be conducted speedily to determine the extent of reimbursement to be made by the Government so that the petitioner is not made to bear any burden for having complied with the mandate of G.O.Ms.No.113 dated 20.05.2008 and the subsequent G.Os. The entire exercise shall be completed within a period of sixteen (16) weeks from the date of receipt of copy of this order.

11. The writ petition is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

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

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Housing and Urban Development Department,
Secretariat, Chennai - 7.
- 2.The Managing Director,
Tamil Nadu Co-Operative Housing Federation Ltd.,
Vepary, Chennai - 7.



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P.T.ASHA, J.

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