

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH  
&

THE HONOURABLE MR. JUSTICE SATHISH NINAN

TUESDAY, THE 31ST DAY OF JULY 2018 / 9TH SRAVANA, 1940

WA.No. 1565 of 2016

(AGAINST THE JUDGMENT IN WP(C) 30016/2011 DATED 23/03/2015)

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APPELLANTS/RESPONDENTS NOS. 3 AND 4

- 1 THE THATHAMANGALAM SERVICE  
TATTAMANGALAM P.O., PALAKKAD DISTRICT, PIN CODE-678102,  
REPRESENTED BY ITS SECRETARY-IN-CHARGE.
- 2 THE GRIEVANCE REDRESSAL OFFICER  
THE TATTAMANGALAM SERVICE CO-OPERATIVE BANK LTD.NO.  
P.502,  
TATTAMANGALAM P.O., PALAKKAD DISTRICT, PIN CODE-678102.

BY ADV.SRI.GEORGE POONTHOTTAM

RESPONDENT/PETITIONERS/RESPONDENT NOS. 1,2 AND 5

1. P. BALACHANDRAN  
S/O.PAZHANIMALA, MANGOD KALAM, CHITTUR TALUK,  
TATTAMANGALAM P.O., PALAKKAD DISTRICT,  
PINCODE-678102.
2. P.BAVADAS  
S/O.PAZHANIMALA, MANGOD KALAM, CHITTUR TALUK,  
TATTAMANGALAM P.O., PALAKKAD DISTRICT,  
PINCODE-678102, REPRESENTED BY ITS SECRETARY.
3. P.PRAKASAN  
S/O.PAZHANIMALA, MANGOD KALAM, CHITTUR TALUK,  
TATTAMANGALAM P.O., PALAKKAD DISTRICT,  
PINCODE-678102.
4. SUDEVAN  
S/O. CHAMY, PERINCHERRY, CHITTUR TALUK,  
TATTAMANGALAM P.O., PALAKKAD DISTRICT,  
PINCODE-678102.

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5. P.SASIDHARAN  
S/O.PAZHANIMALA, MANGOD KALAM, CHITTUR TALUK,  
TATTAMANGALAM P.O., PALAKKAD DISTRICT,  
PINCODE-678102.
  6. MOHAMMEDALI  
S/O. JABBAR, METTUVALAN, NELLIKKODE,  
TATTAMANGALAM P.O., PALAKKAD DISTRICT,  
PINCODE-678102.
  7. UNION OF INDIA  
REPRESENTED BY THE SECRETARY,  
DEPARTMENT OF FINANCE, CENTRAL SECRETARIAT,  
NEW DELHI, PINCODE-110001.
  8. NATIONAL BANK FOR AGRICULTURE AND RURAL DEVELOPMENT  
PUNNAN ROAD, P.B.NO. 5613, STATUE,  
THIRUVANANTHAPURAM, PIN CODE-695039.
  9. THE PALAKKAD DISTRICT CO-OPERATIVE BANK LTD.  
HEAD OFFICE, PALAKKAD, PALAKKAD DISTRICT,  
PINCODE-678001, REPRESENTED BY ITS GENERAL MANAGER.
- R1,R3-R6 BY ADVS. SRI.S.EASWARAN  
SRI.P.MURALEEDHARAN (IRIMPANAM)  
SRI.M.A.AUGUSTINE  
R7 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL OF INDIA  
R8 BY ADV. SRI.K.P.SUJESH KUMAR  
R9 BY SRI.M.P.ASHOK KUMAR

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 31-07-2018,  
ALONG WITH W.A 1570 OF 2016 AND CONNECTED CASES,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WA.No. 1565 of 2016

APPENDIX

PETITIONER'S ANNEXURES

ANNEXURE-A1-TRUE COPY OF THE COMMUNICATION ISSUED BY THE JOINT REGISTRAR  
OF CO-OPERATIVE (GENERAL) , PALAKKAD WITH ITS ENGLISH TRANSLATION

ANNEXURE-A2-TRUE COPY OF THE REPLY GIVEN BY THE APPELLANT BANK IN RESPONSE TO  
ANNEXURE-A1 ISSUED BY THE JOINT REGISTRAR ALONG WITH ITS TRUE  
ENGLISH TRANSLATION

ANNEXURE-A3-TRUE COPY OF THE DETAILS OF THE CONSOLIDATED CLAIM AMOUNT ALONG  
WITH ITS COVERING LETTER DATED 16/03/2016 AND ITS TRUE ENGLISH  
TRANSLATION.

RESPONDENTS ANNEXURES

ANNEXURE-R1 (A) -TRUE COPY OF THE CIRCULAR NO. 1/2008 DATED 28TH MAY, 2008 ISSUED  
BY THE UNION OF INDIA

/TRUE COPY/

P.A. TO JUDGE

mks  
02/08/2018

**V.Chitambaresh & Sathish Ninan, JJ.**

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**W.A Nos.1565 of 2016, 1570 of 2016, 1580 of 2016,  
1596 of 2016, 2035 of 2016, 2390 of 2016, 18 of 2017,  
787 of 2017, 840 of 2017, 817 of 2017, 1112 of 2017,  
1115 of 2017, 1119 of 2017, 1205 of 2017, 1206 of  
2017, 1207 of 2017 & 1267 of 2017**

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**Dated this the 31<sup>st</sup> day of July, 2018**

### **JUDGMENT**

**Sathish Ninan, J**

Agricultural Debt Waiver and Debt Relief Scheme, 2008, was floated by the Government of India granting benefits of debt waiver and debt relief to eligible farmers. The eligibility criteria is as given in the Scheme. The writ petitioners claimed the benefit of debt waiver under the Scheme. The same was originally rejected, against which they approached this Court in W.P.(C) 21746 of 2009 and connected cases. This Court, on a prima facie opinion that they seem to be entitled

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for the benefit of the Scheme, directed the Grievance Redressal Officer constituted under the Scheme to reconsider the matter. The role of the Grievance Redressal Officer under the Scheme has been stated in Clause 10.2 of the Scheme which reads as under:

“10.2. Every lending institution shall appoint one or more Grievance Redressal Officers for each State (having regard to the number of branches in that State). The name and address of the Grievance Redressal Officer concerned shall be displayed in each branch of the lending institution. The Grievance Redressal Officer shall have the authority to receive representations from aggrieved farmers and pass appropriate orders thereon. The order of the Grievance Redressal Officer shall

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be final.”

2. The Grievance Redressal Officer without considering the applications on merits forwarded the same to the District Co-operative Bank. Since under the Scheme the Grievance Redressal Officer himself was required to consider the grievance, W.P.(C) No.3266 of 2010 and connected cases were filed by the beneficiaries. This Court directed the Grievance Redressal Officer to consider the claims and pass appropriate orders.

3. Thereafter the Grievance Redressal Officer found the writ petitioners to be eligible for the benefit of debt waiver under the Scheme and issued Ext P4 communication dated 12.03.2010 to the NABARD who is the

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nodal agency under the Scheme. In spite of the said communication, since the benefits were not extended to the beneficiaries, the present writ petitions were filed.

4. The learned Single Judge found that in terms of the Scheme, a certificate of debt waiver/debt relief is to be forwarded by the lending institution to NABARD based on which the benefits are to be disbursed. These appeals are at the instance of the lending institutions and the NABARD.

5. Heard.

6. The eligibility of the writ petitioners for the benefit of the scheme was found by the Grievance Redressal Officer as is revealed by Ext P4

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communication dated 12.03.2010 issued to NABARD. As noticed supra, under the Scheme the order of the Grievance Redressal Officer is final. At any rate, Ext P4 was not under challenge by any authority before any forum. Therefore, the eligibility of the writ petitioners for the benefit of debt waiver under the Scheme is not open for challenge now. The Scheme regarding debt waiver expired on 30.06.2010. Ext P4 communication of the Grievance Redressal Officer is on 12.03.2010 which is well within time.

7. The grievance of the appellants is that since the Scheme has expired, they will not be provided with funds to extend the benefit to the writ petitioners. NABARD in its counter affidavit filed in the writ



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petition has stated that various formalities as prescribed under the Scheme, regarding audit, were to be complied with, which has not been done, due to which it may not be possible to extent the benefit of the Scheme at this distance of time. Paragraph 6 of the counter affidavit would be relevant and is extracted thereunder.

“It is submitted that as per the existing accounting procedure, after identifying the farmers eligible for debt relief/waiver, the amount determined as eligible for waiver/relief is credited by the Banks concerned to the loan account of the individual loanees and the consolidated amount of debt/waiver is shown in a separate account namely

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“Amount Receivable from Government of India under Agricultural Debt Waiver and Debt Relief Scheme 2008” pending receipt from the Government of India. Before giving credit to the account of the individual loanees, the individual branch-wise claims are subjected to certification and audit by the internal auditors of the respective banks as part of internal audit exercise. The audited branch-wise claims are again subjected to a further audit by Chartered Accountants of the Bank. Thereafter, the consolidated claim of Bank is forwarded to the State Co-operative Bank and the State Co-operative Bank in turn forward the same to NABARD for reimbursement. The consolidated

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claims of the Banks are forwarded by State Co-operative Bank to NABARD with a Certificate from the Chartered Accountants of State Co-operative Bank that the claim raised is in accordance with the Scheme. In view of the foregoing procedure for implementation of Exhibit P1 Scheme, NABARD has no role to play in deciding the eligibility or otherwise of individual claimants and such responsibility falls entirely within the domain of the financing bank.”

8. The writ petitioners cannot be found fault with for the non-completion of the audit or other formalities which the lending institution or other authorities were bound to comply with under the Scheme.

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As noticed supra, well within the currency of the Scheme the Grievance Redressal Officer, who is the final authority under the Scheme held the writ petitioners to be eligible for the benefit of the Scheme. However, the concern as voiced by the learned counsel for the appellants regarding the course to be adopted in view of the expiry of the Scheme as early as on 30.06.2010, needs to be resolved. We feel that Clause 13.2 of the Scheme provides the solution. The said Clause reads as under:

“13.2. If any difficulty arises in giving effect to the provisions of the Scheme or any instructions issued thereunder, the Central Government may by order do anything which appears to it to be necessary or

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expedient for the purpose of removing  
the difficulty.”

9. Going by the said Clause the Central Government can issue appropriate instructions with regard to the course of action to be adopted by the NABARD and the lending institutions. As matters stand now, within the period of the Scheme the writ petitioners were found eligible for the benefit of the Scheme by the Grievance Redressal Officer; certificates of debt waiver were not forwarded by the lending institutions; audit as required in terms of the Scheme has not been conducted. The writ petitioners are not at fault. Under such circumstances we deem it appropriate that the Central Government considers the issue in view of Clause 13.2

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of the Scheme referred to above and give necessary instructions to the lending institution and NABARD, to have the benefit extended to the writ petitioners. Appropriate steps in the said regard shall be taken by the Union of India through its Secretary, Department of Finance as expeditiously as possible and at any rate within a period of three months from the date of receipt of a copy of this judgment.

The writ appeals are disposed of as above.

**Sd/- V.Chitambaresh, Judge**

**Sd/- Sathish Ninan, Judge**