

(2002) 11 MAD CK 0039

In the Madras High Court

Case No : Writ Petition No's. 30052, 32378, 32379, 33048, 34826 and 40339 of 2002 and W.P.M.P. No's. 44025, 47095, 47096, 49079, 51888 and 59862 of 2002 (Old No. of W.P. No. 30052 of 2002 is W.P. No. 30140 of 2002)

C. Balakrishnan, President, Paddy Producers Welfare Association

APPELLANT

Vs

The State of Tamilnadu and Others

RESPONDENT

Date of Decision : 29-11-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) WritLR 380

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : V. Dhanapalan, for the Appellant; M.S. Palanisamy, A.G.P. For respondents-1 and 3 to 5 in W.P. No. 30052 of 2002/ respondents-1, 3 and 4 in W.P. Nos. 32378 and 32379 of 2002/Respondents-1 and 3 to 7 in W.P. Nos. 33048 and 34826 of 2002/Respondents-1, 3, 4, 6 and 7 in W.P. No. 40339 of 2002 and S. Navaneethakrishnan, For respondent-2, for the Respondent

Judgement

P.D. Dinakaran, J.—Heard Mr. V. Dhanapalan for the petitioner in all these writ petitions, Mr. M.S. Palanisamy, Additional Government

Pleader for respondents-1 & 3 to 5 in W.P. No. 30052 of 2002, respondents-1, 3 & 4 in W.P. Nos. 32378 and 32379 of 2002, respondents-1

and 3 to 7 in W.P. Nos. 33048 and 34826 of 2002 and respondents-1, 3, 4, 6 and 7 in W.P. No. 40339 of 2002 and Mr. S.

Navaneethakrishnan for the Insurance Company, viz., 2nd respondent in each of these writ petitions.

2. The petitioner is the President of the Paddy Producers' Welfare Association at Thiruvavarur District, and he has filed the above writ petitions on

behalf of the members of the said Paddy Producers' Welfare Association (hereinafter referred to as the "Association"), claiming that the members of the Association are entitled for the benefits covered under the National Agricultural Insurance Scheme, formulated by the Central Government Agricultural Department, providing insurance coverage and financial support to the farmers in the event of any failure of notified crops due to natural calamities, pests and diseases, for issue of a writ of Mandamus to direct the General Insurance Corporation of India, Chennai, the implementing agency under the Scheme, to pay the insured amount to the members of the said Association, whose names are annexed to the representation of the fifth respondent-banks/cooperative societies in each of the writ petitions, based on the percentage of loss, calculated by the Inspecting Authority for the second harvest of paddy crop during the season 2001-2002, due to the flood in the respective areas in the said crop period.

3. The fact that the said scheme was formulated under the provisions of the Insurance Act, 1938, and that the members of the Association are covered under the insurance policy entered into with the second respondent-Corporation, which is the implementing agency through the respective banks/cooperative societies, who are arrayed as fifth respondent in each of the writ petitions, is not disputed.

4.1. Concedingly, the National Agricultural Insurance Scheme provides a procedure for approval and settlement of the claims under Clause 14 of the said scheme, which reads as follows:

Procedure for approval & settlement of claims:

Once the Yield Data is received from the State/UT Govt. as per the prescribed cut-off dates, claims will be worked out and settled by IA.

The claim cheques along with claim particulars will be released to the individual Nodal Banks. The Banks at the grassroots level, in turn, shall credit the accounts of the individual farmers and display the particulars of beneficiaries on their notice board.

In the context of localised phenomenon, viz., Hailstorm, landslide, cyclone and flood, the IA shall evolve a procedure to estimate such losses at

individual farmer level in consultation with DAC/State/UT. Settlement of such claims will be on individual basis between IA and the insured.

4.2. The second respondent is declared as an implementing agency of the said scheme as per Clause 19 of the said scheme, which reads as

follows:

Implementing Agency (IA):

An exclusive Organisation would be set up in due course, for implementation of RKBY. Until such time as the new set up is created, the GIC of

India will continue to function as the Implementing Agency.

4.3. Pursuant to the said scheme, operational modalities were prescribed, whereunder, a State-Level Coordination Committee on Crop Insurance

to assess the shortfall in the yield, was formed, and Clause 7 of the Operational Modalities, provides the procedure for settlement of claims, which

reads as follows:

Procedure of settlement of Claims: Once the yield data is received from the State Government as per the cut-off-dates decided, the claims will be

worked out as per Declarations received from FIs for each notified area and approval is obtained. The Funds needed for payment of claims

beyond the risk sharing limits of IA shall be provided by the Government to effect payment. The claim cheques along with claim particulars will be

released to individual Nodal points. The FI at the grass root level in turn shall credit the accounts of the individual farmers and display the

particulars of beneficiaries in the notice board.

Loss assessment and modified indemnity procedures in case of occurrence of localised perils, such as hailstorm, landslide, cyclone and Flood

where settlement of claims will be on individual basis, shall be formulated by IA in consultation with State / UT. Govt.

Claims Approval

Claims shall be approved by IA. However, the Government may at their option, scrutinize/examine a claim falling within their risk liability.

Disputed claims / sub standard claims, if any will be referred to a Committee consisting of representatives of Ministry of Agriculture (GOI),

concerned State Government and IA.

Settlement / release of claims in the States / UTs which exceed set risk sharing limits of IA shall be subject to receipt of funds from the

Government.

4.4. Clause 8 of the Operational Modalities requires adequate publicity of the scheme in all the villages of the notified district, the spirit and object

behind the same being, to let the affected farmers claim the benefit under the insurance scheme, viz., the amount insured under the scheme, as a

result of shortfall in the yield in crops in the respective areas.

5. According to the petitioner, the members of the petitioner-Association were deprived of such benefits of the insured amount, which they are

otherwise entitled to, as in the case of the neighbouring blocks, in spite of a positive report to the effect that the members of the petitioner-

Association have also suffered due to the recent flood during the second crop period of 2001-2002.

6. According to the second respondent-Insurance Corporation, there is no shortfall in the yield in Muthupettai, Thiruthuraipoondi and Kottur

Blocks of Tiruvarur District, and therefore, the members of the petitioner-Association are not entitled for the relief, as prayed for. In this regard,

Mr. S. Navaneethakrishnan, learned counsel for the second respondent-Insurance Corporation, brought to my notice, the proceedings of the

Insurance Corporation dated 23.7.2002, which reads as follows:

GENERAL INSURANCE CORPORATION OF INDIA

Ref: No. :859/2002 23 July, 2002

Registrar of Co-operative Societies

170, E.V.R. Periyar High Road

Kilpuak

Chennai-10.

Dear Sir,

Reg.: NAIS - Claims - Clarification for P. Krishnamurthy, Thiruthuraipoondi Taluk, Paddy Producers Association - Application dated

21.06.2002.

Ref: your Ir. No. 90822/2002 NAIS.4 DT. 06.07.2002.

This has reference to the Ir. cited above on the captioned subject. In this regard, we wish to inform that the NAIS operates on area approach i.e.

BLOCK"". But in the application enclosed with your Ir. The blocks were not mentioned. However in Tiruvarur District for all the blocks where

there is shortfall in yield, the claims are already disbursed for Paddy II (Samba/Thallady/Pishanam) 2001-02 Season. As per the actual yield data

submitted by the State Govt. through Crop Cutting Experiments there is no shortfall in yield in Muthupettai, Thiruthuraipoondi & Kottur Blocks of

Tiruvarur District.

Hence no claims are payable for Muthupettai, Thiruthuraipoondi & Kottur Blocks in Tiruvarur District for Paddy II (Samba/Thallady/Pishanam)

crop 2001-02 season.

This is for your kind information.

Thanking you,

sd/- xxxxx

Officer In Charge

7. In view of the above rival contentions with respect to the shortfall in the yield in Muthupettai, Thiruthuraipoondi and Kottur Blocks in Tiruvarur

District, to which, the petitioners belong, the controversy that arises in these writ petitions fall in a narrow compass whether the grievance of the

petitioner as to the shortfall in the yield during the second crop period, viz., 2001-2002, was properly appreciated by the Authorities who assessed

the claims of the members of the petitioner-Association while settling their claims, and whether the statistical details available before them were duly

taken into consideration while deciding on the said shortfall in the yield during the second crop period of 2001-2002.

8. While Mr. V. Dhanapalan, learned counsel for the petitioner, seriously contends that the grievance of the members of the petitioner-Association

in settling the claims under the said insurance scheme was not properly appreciated by the Authorities based on the statistics available in that

regard, the second respondent places reliance on the proceedings dated 23.7.2002 and submits that there is no shortfall in yield in Muthupettai,

Thiruthuraipoondi & Kottur Blocks of Tiruvarur District, wherein, the petitioners' lands are located. The above controversy, which admittedly

requires proof of evidence, in my considered opinion, cannot be gone into under Article 226 of the Constitution of India. However, since the

Government have unambiguously notified the scheme and further made it clear that the above scheme should be given wide publicity, enabling the

farmers to be aware of the benefits under the scheme, it may not be proper for this Court to drag the members of the petitioner-Association to move the civil Court to work out their remedies, which would again be a laborious task in a matter of this sort. Hence, I am obliged to refer the provisions of the Insurance Ombudsman Redressal of Public Grievances Rules, 1998, as rightly brought to my notice by the learned counsel for the second respondent, which was intended to resolve all complaints relating to settlement of claim on the part of insurance companies in cost-effective, efficient and impartial manner. Therefore, suffice it to direct the second respondent- Insurance Company to apprise the grievance of the petitioner-Association to the Governing Body of the Insurance Council constituted under Rule 5 of the Insurance Ombudsman Redressal of Public Grievances Rules, 1998, which, in turn, shall appoint one or more persons as ombudsmen, who shall resolve the grievance of the petitioner-Association expeditiously and decide the rights of the petitioners under the scheme, and direct the concerned banks to give effect to the same, in any event, within four months from the date of receipt of a copy of this order. The writ petitions are ordered accordingly. No costs. Consequently, W.P.M.P. Nos. 44025, 47095, 47096, 49079, 51888 and 59862 of 2002 are closed.