

(2008) 07 MAD CK 0027
In the Madras High Court
Case No : Writ Petition No. 15378 of 2008

R. Kaaruppan

APPELLANT

Vs

Govt. of India and Others

RESPONDENT

Date of Decision : 01-07-2008

Acts Referred:

Citation : AIR 2008 Mad 264 : (2008) 3 LW 424

Hon'ble Judges : A.K. Ganguly, C.J;F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : Party in Person, for the Appellant;

Final Decision : Dismissed

Judgement

A.K. Ganguly, C.J.—Heard Mr. R. Kaaruppan, the petitioner appearing in person in connection with his petition, which has been filed in

public interest. In this petition, the prayer is for a direction upon the first and second respondents to extend the crop loan waiver scheme to all the

farmers throughout India, irrespective of the area of lands held by them.

2. The main thrust in the argument is that the Government of India has announced a waiver of Rs. 71,360 crores of loan taken by the farmers.

Various newspaper reports and materials from the internet have been annexed to the writ petition to show that the policy which has been

formulated in working out this aforesaid loan waiver scheme benefits only farmers having land upto 5 acres. The petitioner submits that the

aforesaid scheme, therefore, is discriminatory inasmuch as it excludes farmers having more than five acres of land from the benefit of the said

scheme. The petitioner further submits that despite the announcement of such waiver scheme, suicides by farmers go on unabated.

3. It is contended that in the matter of distribution of its largesse, the Government cannot discriminate. And any scheme involving outlay of public funds is judicially re-viewable and this Court can intervene and pass appropriate orders in order to remove the vice of discrimination, which according to the petitioner, is writ large over the scheme. The petitioner submits that the discrimination inbuilt in the scheme does not rest on any intelligible nexus between the discrimination made and the purpose, if any, which is sought to be achieved by such discrimination. In other words, the petitioner submits that if the purpose of the said scheme is to give relief to the farmers, big farmers having land more than five acres are also entitled to the relief and cannot be left out of the scheme.

4. Raising the aforesaid contention, the petitioner submits that the Court should examine this scheme judicially and call upon the first and second respondents to answer this charge of discrimination.

5. The Court has considered the submission made by the learned Counsel, who is appearing in person. On a prima facie consideration of the aforesaid submissions, this Court finds that no one has a right to get a waiver of the loan which he takes. When loan is taken either from a nationalized bank or a co-operative society, whether by a farmer or an artisan or a person who is a labourer or a person who is an unemployed young man, he takes such loan on the basis that he will repay it.

6. Repayment of loans taken from public financial institutions is also in public interest since public money is involved. In the writ petition itself, there are averments that the farmers taking loan have a pious obligation to pay it back. Therefore, the writ petitioner himself admitted that there is no right in any one to get waiver in the matter of repayment of loan. Various statutes have been enacted like the Revenue Recovery Act, the Debt Relief Act, the Cooperative Societies Act, and subsequently, the Recovery of Debts Due to Banks and Financial Institutions Act and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, to control the grant of loan and ensure repayment thereof.

7. Despite the aforesaid statutory provisions, which have all been found valid by Courts, the Government of India in exercise of its sovereign power formulated the aforesaid loan waiver scheme by way of an exemption

from the statutory provision as a policy decision.

8. It is not disputed even by the petitioner that the loan waiver scheme has been sanctioned by the Parliament. Similar policies have also been adopted by some State Governments.

9. Such policies are framed by the appropriate Government in larger public interest and as a welfare measure and possibly to tide over any emergent situation. In such cases, it is difficult for a Court to interfere primarily in view of the fact that formulation of such policies pertains to the exclusive domain of the executive wing of the State.

10. Under our Constitutional dispensation, the executive, the legislature and the judiciary should act within their domain having regard to the concept of separation of powers. It may be true that the doctrine of separation of power is not a rigid one in the present day governance, but the principles of separation cannot be totally lost sight of. Therefore, while administering justice, the Court has to act with a sense of restraint and responsibility in order to ensure that it does not encroach upon areas which belong to the exclusive domain of the legislature and the executive, unless any fundamental right or any other constitutional mandate is breached.

11. The Court, after anxious consideration of the submission by the petitioner on discrimination, is of the view that the submission even though appear to be attractive and may be of some importance, still it is difficult for this Court to entertain the same for the purpose of interfering with the implementation of the policy in question.

12. This Court cannot be oblivious of the fact that there does exist a distinction between farmers owning five acres of land and farmers owning land more than five acres. Such a distinction is not "per se" discriminatory. This Court cannot hold that all farmers Irrespective of the area of land held by them must be given the benefit of the waiver scheme. No one has a right to get a waiver of the loan availed by him. Therefore, a line has to be drawn while framing a policy. Unless that line of distinction shocks the conscience of the Court that it must refrain from issuing judicial interdict.

Therefore, the basic question is one of reasonableness. If the line of distinction is prima facie reasonable, which is so in the case of the present policy, the Court must exercise its judicial restraint.

13. Considering the broad features of the policy as disclosed through the various newspaper clippings and other materials annexed to this petition,

the Court finds that the policy has been framed by the Government after considering a number of factors, viz., budgetary allocations, revenue

mobilization the position of the farmers vis-a-vis their land holding and various other consideration.

14. It is difficult for this Court to interfere in the said policy and prevent its implementation, especially when such a policy is framed, in public

interest. A distinction among the farmers on the basis of their landholding is a valid and time honoured distinction. Ceiling laws and land reforms in

our country are based on such distinction. Therefore, the Court refuses to interfere with the said policy as the Court is of the view that such an

interference may amount to an instance of "overreach" of its jurisdiction.

15. For the aforesaid reasons, this Court is constrained not to pass any order on this writ petition. The writ petition is accordingly dismissed.

Consequently, M.P. Nos. 1 and 2 of 2008 are closed. No costs.