

(2005) 02 KL CK 0024

In the High Court Of Kerala

Case No : W.A. No. 38 of 2004 etc.

Thrissur Taluk Chethu Thozhilali Multipurpose Co-op. Society
Ltd.

APPELLANT

Vs

Sub Post Master

RESPONDENT

Date of Decision : 11-02-2005

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2005) 3 BC 382 : (2005) 1 KLT 918

Hon'ble Judges : B. Subhashan Reddy, C.J.;A.K. Basheer, J

Bench : Division Bench

Advocate : N.P. Samuel, Renjith Thampan, P.A. Anitha and R. Vinod, for the Appellant; S. Krishnamoorthy, Sajeesh K.B and John Varghese, for the Respondent

Final Decision : Dismissed

Judgement

B. Subhashan Reddy, C.J.—These five Writ Appeals relate to payment of amounts under Kisan Vikas Pathras. Under Kisan Vikas Patra Rules, 1988, the amount invested will be paid after the maturity period of 5 1/2 years. The maturity value, after the prescribed period, would be double the amount invested. In the instant cases, co-operative societies had invested the amounts, but, after the maturity period, the promised amount was to be paid by the Postal Department, Government of India who had received the amounts for investment under the Kisan Vikas Pathra Scheme. The Government was prepared to refund only the amount invested and not any amount in addition to the same and that has prompted the co-operative societies to file the Writ Petitions. The learned Single Judge had issued writs directing the Central Government to pay the invested amounts under Kisan Vikas Pathra Scheme together with normal rate of interest applicable to long-term deposits. The Central Government filed W.A. Nos. 910, 948 and 1665 of 2004. Two co-operative societies have filed W.A. Nos. 38 of 2004 and 197 of 2005 aggrieved by the non-grant of the full maturity value of Kisan Vikas Pathras. We have heard all the learned counsel in the matters.

2. Mr. Krishnamoorthy, learned Central Government Standing Counsel, submitted that as the receipt of deposits and issuance of Kisan Vikas Pathras to co-operative societies have been discontinued with effect from 1.4.1995 by amending Kisan Vikas Pathra Rules, 1988, only bare amounts which were deposited ought to have been ordered to be refunded by the learned Single Judge and not coupled with any interest thereon. He submitted that it was a sheer mistake of the officials who had accepted the deposit from the co-operative societies, when the scheme was restricted only to individuals and trusts from 1.4.1995 and such a mistake committed by the officials contrary to the Rules cannot give any legal right to the co-operative societies-depositors and that no interest is payable by the Government on the Kisan Vikas Pathras.

3. Learned counsel appearing for the co-operative societies submit that they could have invested the amounts in other schemes and they were under no fault in making deposit for purchasing Kisan Vikas Pathras and the officials who have accepted the amounts and issued Kisan Vikas Pathras ought to have known the amendment of Rules and that for the fault of the officials of the Central Government, the Central Government is liable and the co-operative societies cannot be deprived of the amounts to which they are entitled to.

4. Under Kisan Vikas Pathras, amounts are taken by way of deposit and certificates are issued, the maturity value of which is double the invested amount payable after 5 1/2 years of the deposit. If the scheme was discontinued and confined only for individuals and trusts, the officials of the Postal Department are expected to know the same and their mistake cannot deprive the co-operative societies depositors from getting the maturity value. The mistake could have been rectified at the earliest point of time. But, it is not done. It is also not disputed that amounts, which were received, on issuance of Kisan Vikas Pathras to the co-operative societies have been utilized under Kisan Vikas Pathra scheme. Had the co-operative societies been told at the earliest and their money refunded, the said refunded money could have been invested by the co-operative societies in a manner beneficial to the said institutions. When the co-operative societies had invested the amounts and the said amounts were received and Kisan Vikas Pathras were issued to them, doctrine of legitimate expectation comes into play. It is rather unfair for the Central Government to take a stand that only bare amounts could be refundable when it had utilised the amounts of the depositors according to the scheme and earned profits out of the same. Such a stand of the Central Government is certainly arbitrary and the learned Single Judge has rightly responded in favour of the co-operative societies. The theory of legitimate expectation has been evolved in exercise of discretionary jurisdiction by the constitutional courts and mostly on the touchstone of Article 14 of the Indian Constitution. But, in the instant cases, even the stand of the Central Government not to pay any interest over the amounts deposited by the co-operative societies is arbitrary. Circumstances do not warrant to obligate the Central Government to pay the full maturity value as the facts are such that we have to balance the rights of both the co-operative societies and the Central

Government and while doing so, we are of the considered view that levy of 9% interest from the date of deposit till the date of payment of the amounts deposited by the co-operative societies would meet the ends of justice. Hence, we direct the appellants in W. A.Nos. 910, 948 and 1665 of 2004 to refund the amounts to the respondent-co-operative societies together with 9% interest from the date of deposit till the date of payment. Time for compliance is granted by one month from the date of receipt of a copy of this judgment. The Writ Appeals are dismissed. No costs.