

Satpal and Anr. Vs. Bank of India and Ors.

Civil Appeal No. 367 of 2020 arising out of SLP (C) No. 12621 of 2016

2020-01-17 | Dr. Dhananjaya Y. Chandrachud, J.

Repository ID: F2J-C-1884

Full judgment text

Satpal and Anr. Vs. Bank of India and Ors.

[Civil Appeal No. 367 of 2020 arising out of SLP (C) No. 12621 of 2016]

Dr. Dhananjaya Y. Chandrachud, J.

1. Leave granted.

2. The Union government conceived of a Debt Relief Scheme for agriculturists in the Budget of 2008. Eleven budgets later and despite the travails of a decade and more spent in pursuing justice, two farmers have moved this Court. Their plea is simple: that the rights which the law recognizes have been thus far an illusion. They pursue a hope that the promises of policy would be secured.

3. This appeal arises from a judgment of the National Consumer Disputes Redressal Commission¹ dated 5 August 2015 in a revision arising out of an order of the State Consumer Disputes Redressal Commission², Haryana.

4. The appellants are brothers. They took a loan of Rupees three lacs from the first respondent in 2008 for purchasing a tractor for their agricultural land. The loan remained outstanding after some installments were paid.

5. In the Union Budget of 2008-2009, an Agricultural Debt Waiver and Debt Relief Scheme were notified. Guidelines were issued by the Ministry of Finance on 18 June 2009. Farmers were categorised into three categories: (i) marginal farmers; (ii) small farmers; and (iii) other farmers. The appellants claim to fall under the definition of 'small farmers'. They claimed a waiver of the loan under clause 5 of the Scheme. The Bank of India which had sanctioned the loan declined to accede to the claim for waiver.

The appellants instituted a complaint before the District Consumer Disputes Redressal Forum³, Faridabad. In response to the complaint, the first respondent filed a written statement submitting that the appellants are not small farmers and since their joint holding is more than five acres, they fall within the category of 'other farmers' and were hence entitled only to a waiver of twenty-five per cent of the loan amount.

6. The District Forum allowed the complaint by coming to a conclusion that each of the two appellants had a holding of thirty-eight kanals eleven marlas which was less than the stipulated limit of five acres. The District Forum held that the largest holding in the pool, where a loan has been jointly applied for, would have to be taken into reckoning. Hence applying that test, both the appellants were held to fall in the category of small farmers. The District Forum observed thus:

"Both the complainants are separately owners of their respective holding measuring 38 kanals 11 marla each which is less than 5 acre each. The entire mortgaged land of the complainants cannot be made the basis for determining the classification of the complainants whether they fall in the category of small farmers or other farmers. The size of largest holding in the pool is to be made the basis for classification of farmer.

Since the largest holding in the pool of one of the complainants was 38 kanal 11 marlas i.e. 4 acre 6 kanal 11 marla, both the complainants will fall in category of "small farmers" and not in the category of "other farmers". This being the position the entire "eligible amount" i.e. outstanding loan amount of the complainants shall be waived as per clause 5 of the Scheme and not only 25% as allowed by the respondents."

7. In an appeal by the Bank, the SCDRC, agreed with the view of the District Forum in the following terms:

"Admittedly, complainants had availed loan of Rs.3,00,000/- for purchase of tractor from the appellants-opposite parties after mortgaging their agricultural land measuring 38 kanal 11 marla each totaling 77 kanal 22 marla. The complainants wrote several letters to the appellants-opposite parties for

giving them benefit of scheme and waive of entire outstanding loan amount but they were allowed only 25% benefit of the outstanding loan on the ground that they jointly had mortgaged their land which was more than 5 acres for obtaining a tractor loan of Rs.3,00,000/- and so, they were not entitled for entire waiver of the loan amount.

The complainant were holding their separate land measuring 38 kanals 11 marla each which is less than 5 acres each. Since, the largest holding in the pool of one of the complainants was 38 kanal 11 marlas i.e. 4 acre 6 kanal 11 marla, both the complainants fell in the category of "Small Farmers" and not in the category of "Other Farmers". Thus, the complainants were eligible for entire waiver of outstanding loan amount as per clause 5 of the Scheme instead of 25%."

8. In a revision filed by the Bank against the order of the State Commission, the National Commission, however, came to a contrary conclusion on the sole ground that the land of the appellants is situated in the district of Faridabad which is not included in Annexure-I of the Scheme. The National Commission held that the debt waiver policy was not applicable to the appellants and the denial of a complete waiver of the loan cannot be termed as deficiency in service. This finding has been assailed on behalf of the appellants in appeal.

9. It has been urged on behalf of the appellants by Mr Deepak Thukral, learned Counsel that under clause 5 of the Scheme, the entire eligible amount is liable to be waived in the case of small and marginal farmers. Counsel submitted that in the case of 'other farmers', clause 6 provides for debt relief and it was the proviso to that clause which contains a reference to Annexure-I.

Under the proviso to clause 6, a facility would be given of an OTS rebate of twenty-five per cent of the 'eligible amount' or Rs 20,000, whichever is higher, subject to the condition that the farmer paying the balance is a resident of one of the revenue districts listed in Annexure-I. Learned Counsel submitted that the claim of the appellants was not under clause 6, but under clause 5, which is not governed by the Annexure-I.

Learned Counsel submitted that the entitlement of the appellants having been established under clause 5 before both the District Forum and the State Commission, the view which has been taken by the National Commission, is palpably erroneous. Learned Counsel has stated that the appellants have not entered into any OTS settlement with the first respondent.

10. Ms. Madhumita Bhattacharjee, learned Counsel appearing on behalf of the first respondent submitted that the case of the appellants has been processed on the basis that they are 'other farmers' within the meaning of clause 3.7 of the Scheme. In particular, learned Counsel relies on explanation 3 which provides for the manner in which a case involving investment credit for allied activities would be processed. In other words, it was urged that apart from the consideration that weighed with the National Commission, the appellants would not be entitled to the benefit of a complete waiver in terms of the Scheme.

11. Clause 3 of the Scheme contains definitions. The expression 'direct agricultural loans' is defined in clause 3.1 as follows:

"3.1 'Direct Agricultural Loans' means Short Term Production Loans and Investment Loans provided directly to farmers for agricultural purposes. This would also include such loans provided directly to groups of individual farmers (for example Self Help Groups and Joint Liability Groups), provided banks maintain disaggregated data of the loan extended to each farmer belonging to that group."

12. The expression 'investment loan' is defined in clause 3.3 as follows:

"3.3 'Investment Loan' means

(a) Investment credit for direct agricultural activities extended for meeting outlays relating to the replacement and maintenance of wasting assets and for capital investment designed to increase the output from the land, e.g. deepening of wells, sinking of new wells, installation of pump sets, purchase of tractor / pair of bullocks, land development and term loan for traditional and nontraditional plantations and horticulture; and

(b) investment credit for allied activities extended for acquiring assets in respect of activities allied to agriculture e.g. dairy, poultry farming, goatery, sheep rearing, piggyery, fisheries, bee-keeping, green houses and biogas."

13. The definitions of marginal farmer, small farmer and other farmer contained in clauses 3.5, 3.6 and 3.7 read as follows:

"3.5 'Marginal Farmer' means a farmer cultivating (as owner or tenant or share cropper) agricultural land up to 1 hectare (2.5 acres).

3.6 'Small Farmer' means a farmer cultivating (as owner or tenant or share cropper) agricultural land of more than 1 hectare and up to 2 hectares (5 acres).

3.7 'Other Farmer' means a farmer cultivating (as owner or tenant or share cropper) agricultural land or more than 2 hectares (more than 5 acres)."

14. The explanations to the above definitions are significant for the present purposes and are therefore extracted below:

"Explanation: 1 The classification of eligible farmers as per the above landholding criteria under the Scheme would be based on the total extent of land owned by the farmer either singly or as joint holder (in the case of an owner-farmer) or the total extent of land cultivated by the farmer (as tenant or share cropper), at the time of sanction of the loan, irrespective of any subsequent changes in ownership or possession.

2. In the case of borrowing by more than one farmer by pooling their landholdings, the size of the largest landholding in the pool shall be the basis for the purpose of classification of all farmers in that pool as 'marginal farmer' or 'small farmer' or 'other farmer'.

3. In the case of a farmer who has obtained investment credit for allied activities where the principal loan amount does not exceed Rs.50,000, he would be classified as "small and marginal farmer" and, where the principal amount exceeds Rs.50,000, he would be classified as 'other farmer', irrespective in both cases of the size of the land holding, if any.

4. Direct agricultural loan taken under a Kisan Credit Card would also be covered under this Scheme subject to these Guidelines.

5. A short-term production loan and an investment loan taken by a farmer shall be counted as two distinct loans and the Scheme will apply to the two loans separately. Likewise, in the case of a farmer who has taken two investment loans for two separate purposes, the two loans shall be counted as two distinct loans and the Scheme will apply to the two loans separately."

15. For the purpose of the present case, clause 3.6, which defines the expression 'small farmer' is relevant. A small farmer is a farmer cultivating agricultural land of more than 1 hectare and up to 2 hectares (5 acres). The expression 'other farmer' covers those farmers whose holding is in excess of five acres. Where a borrowing is by more than one farmer all of whom have pooled their land, explanation 2 provides that the largest landholding in the pool shall be the basis for the classification of all farmers in that pool as marginal, small or other farmers.

This explanation indicates that where both the appellants have pooled their landholding for the purpose of loan, the largest landholding amongst them would be taken into consideration for classifying them in the appropriate category. The District Forum carefully evaluated this aspect and came to the conclusion that the largest of the landholdings of the two appellants was four acres six kanals and eleven marlas and, hence both the appellants would fall in the category of 'small farmer' and not in the category of 'other farmer'. This finding is in terms of the provisions which we have referred to above and is correct. The State Commission has also entered a similar finding.

16. Clause 5 of the Scheme provides for a debt waiver in the following terms:

"5. Debt Waiver 5.1 In the case of a small or marginal farmer, the entire 'eligible amount' shall be waived."

17. Clause 6 provides for debt relief as follows:

"6. Debt Relief 6.1 In the case of 'other farmers', there will be a one time settlement (OTS) Scheme under which the farmer will be given a rebate of 25 per cent of the 'eligible amount' subject to the condition that the farmer pays the balance of 75 per cent of the 'eligible amount'. Provided that in the case of revenue districts listed in Annex-I, 'other farmers' will be given OTS rebate of 25 per cent of the 'eligible amount' or Rs.20,000, whichever is higher, subject to the condition that the farmer pays the balance of the 'eligible amount'."

18. The appellants claimed a debt waiver on the ground that they were small farmers. The entire eligible amount was liable to be waived in terms of clause 5. The National Commission proceeded on the basis that the Scheme was applicable only to certain districts in the State of Haryana and since Faridabad is not a district listed in Annexure-I, the appellants were not entitled to any relief. This finding is erroneous. The relief provided in clause 6 is in the form of a one time settlement where a farmer is given a rebate of twenty-five per cent of the loan amount.

However, under the proviso, in the case of revenue districts listed in Annexure-I, the OTS rebate is to be twenty-five per cent of the eligible amount or Rs 20, 000, whichever is higher. The issue as to whether the landholding of the claimant falls in one of the listed districts of Annexure-I, is relevant for the purpose of clause 6 of the Scheme. The appellants did not make any claim under clause 6. Their claim was under clause 5. The National Commission was in error in holding the appellants to be ineligible on the basis that the district of Faridabad has not been listed in Annexure-I.

19. That leaves the Court with the submission of the learned counsel appearing on behalf of the respondent based on explanation 3 to the definitions. Explanation 3 applies to a farmer who has obtained investment credit for allied activities. Clause 3.1 contains a definition of direct agricultural loans and covers short term production loans and investment loans provided directly to farmers for agricultural purposes.

Clause 3.3(a) brings within the purview of an investment loan, investment credit for direct agricultural activities including the purchase of a tractor. The loan which was extended to the appellants was for the purchase of a tractor. It was a loan for allied activities and hence, explanation 3 has no application.

20. For the above reasons, we hold and conclude that there was no valid basis for the National Commission to reverse the concurrent findings which were arrived at by the District Forum and the State Commission. The District Forum allowed the complaint by directing the respondents to waive the loan amount, together with the interest outstanding in the name of the complainants against the tractor loan.

21. We allow the appeal by setting aside the judgment of the National Commission. We restore the order of the District Forum which was confirmed in appeal by the State Commission. The appellants shall be entitled to costs quantified at Rs. 50,000.

1 NCDRC

2 SCDRC

3 District Forum

Item No. 36

Satpal and Anr. Vs. Bank of India and Ors.

[Petition(s) for Special Leave to Appeal (C) No. 12621/2016 arising out of impugned final judgment and order dated 05-08-2015 in RP No. 583/2013 passed by the National Consumers Disputes Redressal Commission, New Delhi]

This petition was called on for hearing today.

CORAM:

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)

Mr. Deepak Thukral, Adv. Mr. Vikas Gupta, Adv. Mr. Shree Pal Singh, AOR

For Respondent(s)

Mr. A. N. Arora, AOR Ms. Madhumita Bhattacharjee, AOR

UPON hearing the counsel the Court made the following

Leave granted.

The appeal is allowed in terms of the signed reportable judgment.

Source disclosure: Complete sanitized public judgment text retained for research. Official-primary replacement and later-history closure remain pending.

Disclaimer: This material is for general information and legal research. It is not legal advice. Verify current law, the operative order and later history, and consult a qualified professional before acting.