

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 3RD DAY OF JANUARY 2018 / 13TH POUSHA, 1939

WP(C).No. 34497 of 2010

PETITIONER:

SMT.EMILY JOSEPH,  
W/O JOSEPH C.J., CHAKKALAYIL,  
KODIKULAM, IDUKKI DISTRICT - 685 582.

BY ADV.SMT.SHAMEENA SALAHUDHEEN

RESPONDENTS:

1. KERALA KHADI AND VILLAGE INDUSTRIES BOARD,  
REP. BY ITS SECRETARY, VANCHIYOOR,  
THIRUVANANTHAPURAM-695035.
2. THE PROJECT OFFICER,  
DISTRICT KHADI AND VILLAGE INDUSTRIES BOARD,  
THODUPUZHA, IDUKKI-685584.
3. THE SECRETARY,  
THODUPUZHA PRIMARY CO-OPERATIVE  
AGRICULTURAL AND RURAL DEVELOPMENT BANK,  
THODUPUZHA, IDUKKI-685584.
4. THE MANAGER,  
IDUKKI DISTRICT CO-OP. BANK,  
UDUMBANNUR, IDUKKI-685595.

\*ADDL. 5TH RESPONDENT IMPLEADED:

5. THE STATE DIRECTOR,  
KHADI AND VILLAGE INDUSTRIES COMMISSION,  
AYURVEDA COLLEGE JUNCTION,  
THIRUVANANTHAPURAM.

\*ADDL. R5 IS IMPLEADED AS PER ORDER DATED 13.11.2017 IN IA.5694/2017

R1 & R2 BY ADVS. SRI.K.P.HARISH,SC,  
SRI.R.S.HARI KUMAR ,SC,  
SRI.TOM K.THOMAS, SC  
SRI.M.SHARAFUDHEEN, SC,KERALA KHADI & VILLAGE INDUSTRIES  
R4 BY ADVS. SRI.P.C.SASIDHARAN  
SRI.JOICE GEORGE, SC,IDUKKI D.CO-OP.BANK  
R5 BY ADV. SRI.LEGY ABRAHAM, SC, K.V.I.C.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03-01-2018,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

PETITIONER(S) ' EXHIBITS

- P1 TRUE COPY OF THE LETTER AND CERTIFICATE ISSUED BY THE 3RD RESPONDENT DATED 13.2.1998 & 25.2.1998
- P2 TRUE COPY OF THE LOAN SANCTIONING ORDER DATED 11.3.1998 ISSUED BY THE 3RD RESPONDENT
- P3 TRUE COPY OF THE PROCEEDINGS DATED 14.7.98 ISSUED BY THE 1ST RESPONDENT
- P4 TRUE COPY OF THE REQUEST OF THE PETITIONER DATED 1.8.98
- P5 TRUE COPY OF THE ORDER NO.KB/4036/98/SP DATED 23.10.98
- P6 TRUE COPY OF THE REQUEST OF THE PETITIONER DATED 3.5.99
- P7 TRUE COPY OF THE CERTIFICATE NO.A.61/98/ELE.SEP DATED 8.11.2000
- P8 TRUE COPY OF THE LETTER NO.B.616/2002/S.E.P. (M.M.) DATED 13.12.2002 ISSUED BY THE 2ND RESPONDENT
- P9 TRUE COPY OF THE LETTER NO.K.B.4036/98/S.E.P. DATED 4.4.2003 ISSUED BY THE 1ST RESPONDENT
- P10 TRUE COPY OF THE REPLY DATED 21.4.2003 OF THE PETITIONER
- P11 TRUE COPY OF THE REPRESENTATION DATED 26.6.2003
- P12 TRUE COPY OF THE REPRESENTATION DATED 15.1.2004
- P13 TRUE COPY OF THE APPLICATION UNDER THE RIGHT TO INFORMATION ACT DATED 8.1.2010
- P14 TRUE COPY OF THE REPLY RECEIVED DATED 8.2.2010
- P15 TRUE COPY OF THE LETTER NO.B.553/10/REGP DATED 11.10.2010
- P16 TRUE COPY OF THE REQUEST OF THE PETITIONER DATED 20.10.2010
- P17 TRUE COPY OF THE LETTER NO.A.61/98/ELECTRONICS/SEP. DATE D19.10.2010 ISSUED BY THE 2ND RESPONDENT

RESPONDENT(S) ' ANNEXURES

- R1 (A) A TRUE COPY OF THE WILLINGNESS LETTER DATED 13.2.1998 ISSUED BY THE 3RD RESPONDENT TO THE 1ST RESPONDENT
- R1 (B) A TRUE COPY OF THE CERTIFICATE DATED 10.5.2000 ISSUED BY THE BANK
- R1 (C) THE TRUE COPY OF THE RELEVANT PAGE OF THE GUIDELINE
- R1 (D) THE TRUE COPY OF THE PROCEEDINGS DATE D14.7.1998

TRUE COPY

P.S. TO JUDGE

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**A. MUHAMED MUSTAQUE, J.**

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W.P.(C).No.34497 of 2010  
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Dated this the 3<sup>rd</sup> day of January, 2018.

**JUDGMENT**

The petitioner is an entrepreneur, who established an electronic unit in a grama panchayat. Kerala Khadi and Village Industries Board sanctioned margin money assistance to the petitioner. The amount was quantified at Rs.33,990/-. This was sanctioned on 14.7.1998. The amount was deposited in a bank on 18.11.1983 with a lien to the Project Officer, District Khadi and Village Industries, Idukki. As per the scheme, on successful completion of 5 years, the margin money will be released to the petitioner.

2. On completion of 5 years, the petitioner requested for release of the margin money. This was rejected as per Ext.P9 dated 4.4.2000 stating that the petitioner was not entitled for margin money as the petitioner was sanctioned loan by the bank before the recommendation of the Project Officer.

3. Per se I can say that this rejection is illegal in as much as without revoking the sanction, the claim for release could not have been rejected. Once margin money is ordered to be released, without revising such order, the Board could not have refused release of the margin money when the term is completed making the entrepreneur eligible for such margin money. However what looms charge in the case is that delay involved in the matter.

Petitioner approached this Court only in 2010. By that time, invoking the lien, the Project Officer obtained fixed deposit and appears to have transmitted to the Khadi and Village Industries Commission, the additional 5<sup>th</sup> respondent. According to the Board, they are only an agency and they have no role.

4. The delay would frustrate the relief sometime. However, in this case there are materials to show that the petitioner is making correspondance with the Board demanding release of the amount. When no third party right is involved, the writ petition cannot be rejected merely based on the delay. It is also to be noted that the bank released the fixed deposit to the Project Officer in the year 2010. It is also to be noted that the bank released the fixed deposit to the Project Officer in the year 2010.

This Court is of the view that if the 5<sup>th</sup> respondent had received the money back, they shall release the same to the Board. This shall be done within a period of two months or the Commission is of the view that they have not received back the money, they shall intimate the same to the petitioner as well as the Board. Based on such decision of the Commission, certainly the Board shall release the amount to the petitioner within a period of one month. If the Commission received back the amount of money, on receipt, it shall be returned to the Board within the aforesaid

period and on receipt of the same, the Board shall release the amount to the petitioner without any delay. It is made clear that the entire amount received from the bank shall be released to the petitioner.

The writ petition is allowed and disposed of as above. No costs.

Sd/-

**A. MUHAMED MUSTAQUE,  
JUDGE.**

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