DR. A.K.JAYASANKARAN NAMBIAR, J.
&
JOBIN SEBASTIAN, J.

W.P.(C).NO.28509 OF 2024

Dated this the 8th day of October, 2025

O R D E R

Dr. A.K. Jayasankaran Nambiar, J.

After seeking many adjournments from this Court to revert with a decision on the issue of waiver of bank loans outstanding from the victims of the devastating landslide at Wayanad, the Union Government has finally submitted an affidavit, affirmed and signed by an Under Secretary in the Ministry of Home Affairs, Government of India. After referring to Master Directions issued by the Reserve Bank of India in 2018 as regards relief measures to be adopted by banks in areas affected by natural calamities, it is stated as follows at paragraphs 4 to 7 of the affidavit:

> "4. It is submitted that the RBI directions on Relief Measures by Banks in Areas Affected by Natural Calamities provides effective ways to redress grievances and to grant relief to the affected people in order to ameliorate the difficulties the borrowers may face due to the calamity, but there is no provision of loan waiver. However, on any shortcomings being noticed in the implementation of the said guidelines, DFS may take corrective measures by issuing necessary directions to the Banks.
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> 5. It is further stated that the Department of Financial Services, Ministry of Finance oversees the administrative matters related to Public Sector Banks and only provides policy support. Banks are independent commercial organizations accountable to their shareholders for their commercial decisions which are taken as per their Board-approved policies and as per RBI guidelines.

> 6. It is reiterated that the measures/directions issued by the RBI through its Master Direction in 2018, are comprehensive enough to provide necessary relief to the affected parties in the Calamities/Disasters. It is also brought to notice that in January 2015 during Gyan Sangam, conference for banks and financial institutions in India, organized by the Ministry of Finance to advance reforms in the banking and financial sector, it was decided that the Government will not interfere in the commercial working/decisions of the Banks. Hence it is humbly submitted that the decision to grant loan waiver is beyond the administrative powers of the Department of Financial Services, Ministry of Finance.
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> 7. The Ministry of Home Affairs is the nodal ministry for issues pertaining to Disaster Management, relief and rehabilitation. Therefore, in view of the inputs provided by the Department of Financial Services, Ministry of Finance and based on the RBI's Master Direction -Relief Measures by Banks in Areas Affected by Natural Calamities Directions, 2018 in the matter, it is submitted that there is no provision for providing any kind of loan waiver as far as Natural Disasters are concerned. Further, it is submitted that mechanism/measures to deal with the relief measures have been adequately elaborated in the Master Direction -Relief Measures by Banks in Areas Affected by Natural Calamities Directions, 2018 by RBI dated 17.10.2018."

2. It has become quite apparent to this Court, therefore, that the Union Government does not intend to exercise its discretion to direct the banks concerned to waive the repayment of the loan amounts in question, and that is indeed unfortunate. Notwithstanding the averments in the affidavit filed by it before this Court, we cannot accept the stand taken by the Union Government that it is powerless to act in a situation such as this. Article 73 of the Indian Constitution makes it abundantly clear that the executive power of the Union shall extend to matters with respect to which the Parliament has the power to make laws. It is also significant that the Parliament's legislative powers include the residual power to legislate over all matters, including taxation, not

specified in any of the lists under the seventh schedule to the Constitution. As the repository of such vast powers, we would have thought that the Union Government would have considered itself constitutionally obliged to act in a responsible manner to protect the fundamental right to life of the hapless victims of a natural disaster that the Government itself categorised as “Severe” for the purposes of the Disaster Management Act, 2005. This is more so when we find from a news report in the Hindu daily today [8.10.2025] that the Union Government has approved Rs.707 crore in aid, by way of additional central assistance to the States of Assam and Gujarat which were affected by flood and landslides during 2024. The monetary relief sought in the instant proceedings through a loan waiver is merely a fraction of the figures indicated in the news report referred to above. Unfortunately, the submissions hitherto made before us, based on the affidavit referred to above, demonstrate an unwillingness on the part of the Union Executive to come to the aid of the victims of the Wayanad tragedy.

3. Part III of our Constitution obligates the State to protect the fundamental rights of our people. The term “State” under the Constitution refers collectively to the governing machinery that includes the legislative, executive and judicial wings of the Union,

the States and the Union Territories, that together constitute India, that is Bharat. The federal principle envisaged under the Constitution does not allow for a differential treatment being meted out by the Union Government to citizens in any particular state. Party politics cannot negate the constitutional guarantee of protection of the fundamental rights of the people in a democratic republic. In the instant case, what is at stake is the fundamental right of the landslide victims of Wayanad to a life with dignity. Having lost their lands, and their means of livelihood, in the devastating landslide, they are now being called upon to repay the loans availed by them for agricultural and related purposes when the very property that they had offered as collateral security while availing those loans has ceased to exist. This is nothing short of an affront to their dignity which has been recognised as an aspect of their fundamental right to life under Article 21 of the Constitution. By refusing to exercise a power that they have, in a situation that calls for the exercise of that power, we are of the view that the Union Government has virtually failed the landslide victims of Wayanad.

4. Exasperating though the situation may be, our commitment to constitutional morality obliges us to respect the principle of separation of powers envisaged under the Constitution,

and thereby to defer to the decision of the Union Government on a matter of economic policy. We therefore refrain from issuing any directions to the Union Government regarding the manner in which they ought to exercise their discretion. However, as an integral part of the “State” under the Constitution, and as a guardian of the fundamental rights of the people, we cannot remain mute spectators to the Shylockian methods resorted to by the banks concerned to recover the loans advanced by them. We believe that we can certainly consider the legality of the recovery action initiated by them against the backdrop of the circumstances under which such action is initiated. Fairness in state action being one of the cardinal features of the rule of law that is recognised as a basic feature of the Constitution, we cannot presently permit the banks and financial institutions concerned to ride rough shod over the fundamental rights of the landslide victims at a time when they are struggling to restore normalcy in their lives. We therefore issue the following directions:

(i) The following banks are impleaded as additional respondents in W.P(C).No.28509 of 2024. The Registry shall issue notice to the said additional respondents and also serve a copy of this order to the said additional respondents:

1. Bank of Baroda, Regional Office, Ernakulam, 5th Floor, MG Road Metro Station Complex, Kochi, Kerala –

682035.

2. Central Bank of India, Cochin Regional Office, GEO Towers, 2nd Floor, Sahodaran Ayyappan Road, Pallimukku, Kochi, Ernakulam, Kerala – 682016
3. Canara Bank, Circle Office, TC 26/173, M.G. Road, Spencer Junction, Thiruvananthapuram, Kerala – 695001
4. Indian Overseas Bank [IOB], Regional Office, IOB Building, M.G. Road, Thiruvananthapuram – 695001.
5. Indian Bank, Zonal Office, Valanjambalam, Ernakulam, Kerala.
6. State Bank of India [SBI], Local Head Office, Poojappura, Thiruvananthapuram – 695012.
7. Punjab National Bank [PNB], Circle Office, 40/7365, Mullassery Canal Road, Ernakulam North, Kochi – 682108.
8. Union Bank of India, Regional Office, Ernakulam, 2nd Floor, Vankarath Towers, NH Bypass, Palarivattom, Kochi – 682024.
9. Bank of India, Kerala Zonal Office, Kaloor Towers, Kaloor, Kadavanthra Road, Cochin, Ernakulam - 682017.
10. Federal Bank, Head Office [Registered HQ], P.B.No.103, Federal Towers, Aluva, Kerala - 683101.
11. South Indian Bank Ltd., Corporate/Head Office, T.B. Road, Mission Quarters, Thrissur – 680001.
12. Kerala Gramin Bank [KGB], Head Office, KGB Towers, AK Road, Up Hill, P.O. Malappuram – 676505.

(ii) Recovery action, if any initiated by the additional respondent banks, against the landslide victims in

Wayanad shall be kept in abeyance pending final disposal of this writ petition.

(iii) It shall be open to the additional respondents to move for a modification of this order after filing their counter affidavits in these proceedings. The counter affidavits shall state clearly -

(a) whether the respondent banks are willing to waive, either wholly or partially, the loans availed by the landslide victims in Wayanad, or

(b) if not, their justification, with reference to the terms of loan agreements for seeking repayment of loan, together with interest, during the pendency of these proceedings.

Sd/-
DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-
JOBIN SEBASTIAN
JUDGE

prp/8/10/25