

W.P.No.686 of 2019
and W.M.P.No.752 of 2019

M.SATHYANARAYANAN, J.,
AND
P.RAJAMANICKAM, J.,

(Order of the Court was made by M.Sathyanarayanan, J.)

Notice through Court as well as privately to the respondents 1 and 5 returnable on 06.02.2019.

2. The present Public Interest Litigation pertains to the alleged policy decision taken by the Government of Tamil Nadu on the eve of an important festival of "Pongal", to distribute to each of the ration card / family card holders food articles containing 1 kg sugar, 20 grams of Dry Grapes, 20 grams of cashew, 5 grams of cardamon pod, two feet sugarcane and that apart, cash gift of Rs.1,000/- to each of them.

3. The grievance expressed by the petitioner in the form of Public Interest Litigation is that on account of the report of the Reserve Bank of India coupled with the fact that every year, a financial deficit is widening and there is absolutely no need or necessity to give cash gift of Rs.1,000/- to all the card holders and such a policy decision has no nexus with the object sought to be achieved.

4. The petitioner in the affidavit filed in support of the writ petition as well as in the miscellaneous petition would aver that the State Government is facing serious financial crisis in the recent past, which is evident from the fact that the Government has not paid the relief funds to the Gaja Cyclone affected people in the coastal District of the State and in paragraph No.7, it would indicate that income from the tax generated by the Government is Rs.1,12,616/- crores, whereas the total liability of the State is Rs.3,55,845/- crores besides the new loan sought for by the State Government to the tune of Rs.43,962/- crores and also given the following Tabular Column as to the interest liability:

<i>Sl.No</i>	<i>Period in years</i>	<i>Interest Liability</i>
1	2015-2016	18,162 crores
2	2016-2017	21,396 crores
3	2017-2018	25,482 crores
4	2018-2019	29,624 crores

In paragraph No.8 of the affidavit, the petitioner has also placed reliance upon the report of the Reserve Bank of India, as to the financial condition of the State and it is relevant to extract the same:

Budge allotment in 2018-2019 (in crores)

Agricultural Department-Rs.8,916/-

Highways Department – Rs.11,073/-

Pension Expenditure – Rs.25,362/-

Education Department – Rs.27,205/-

Capital Allocation – Rs.28,282/-

5. It is also stated by the petitioner that every financial year, the loan and interest liabilities are going up and it is going beyond the control and the financial experts had also expressed deep concern about the increase in the uncontrolled loan liability due to the undeserving freebies and according to them, the allocation of Rs.28,282/- crores towards capital expenditure is less than the interest liability of Rs.29,624/- crores. The petitioner has also taken a stand that though he is not against the policy decision to give gift to the deserving people, but giving such gift to all the card holders, irrespective of their financial position and status, would create unnecessary financial crisis in the days to come and therefore, prays for interim orders.

6. Mr.N.Manoharan, learned counsel appearing for the petitioner would submit that there is no need or necessity to give cash gift of Rs.1,000/- to each card holder in spite of their financial position and status and it would further increase the loan and interest liability of the State. It is also reeling under severe financial crises in distribution of Rs.1,000/- to each card holder and there is no rationale with the object sought to be achieved and hence, prays for appropriate interim orders.

7. *Per contra*, Mr.Vijay Narayan, learned Advocate General appearing for the respondents 1 to 3 would submit that it is the policy decision of the Government to distribute articles for preparation of "Pongal" and also to give cash gift of Rs.1,000/- to each card holder and proper monitoring mechanism has also been put in place and in the absence of any arbitrary or *malafide* exercise of power, such a policy decision cannot be normally interfered by this Court and prays for time to file comprehensive counter affidavit with supporting documents.

8. This Court paid its best attention to the rival submission and also perused the materials placed before it.

9. The distribution of freebies insofar as the State is concerned becomes an order of the day and whichever party is in power had resorted / resorting to distribute all such freebies and take for example, freebies have been distributed in the form of Television, Grinders, Mixies, Cycles for school students and Laptops for students, Scooty (motorised two-wheeler) for women and that apart cattle for farmers also and on account of resorting to such freebies distribution, crores and crores of amount had been spent.

10. This Court is also taking judicial notice of the fact that after 70 years of independence, basic infrastructure and amenities such as potable water, good roads, electricity and quality education to the students etc are yet to be provided and provision of those basic facilities and amenities, still remain as a dream and whereas tonnes and tonnes of money have been spent towards freebies without any worthwhile return.

11. It is also brought to the knowledge of this Court that the family / ration cards have been categorised as follows:

PHH [Priority household below poverty line]

PHH-AAY [Below poverty line lower middle income group]

NPHH [Between the poverty line and the lower middle income groups]

NPHH-S [Non priority household only for Sugar]

NC [No Commodity- Above poverty line wherein no commodities are distributed and technically the said card is being used as Identity Card].

12. The Commissioner, 2nd respondent has issued a Circular dated 04.01.2019 in Na.Ka.No.E2/00035/2019, in and by which the distribution of package of articles containing 1 kg sugar, 20 grams of Dry Grapes, 20 grams of cashew, 5 grams of cardamon pod, two feet sugarcane to all card holders and that apart "Pongal" cash gift of Rs.1,000/- to all card holders of all families is also to be given. It is

relevant to extract paragraph No. (a) and (b) of the said circular:

(a) in order to celebrate the pongal festival grandly, the Government issued a notification to distribute a package of articles containing 1 kg sugar, 20 grams of Dry Grapes, 20 grams of cashew, 5 grams of cardamon pod, two feet sugarcane . Barring this, as bye-election is to be conducted for Thiruvarur Constitution, subject to the election rules of conduct in force in that District, vide reference second cited above, for each and every family in other districts in the State and notification for payment of Rs.1,000/- to each family by the Government on the eve of Pongal Festival was also issued.

(b) For implementing this scheme in a grand manner, the District Collectors are requested to properly undertake this service. Further, the entire responsibility for completing distribution of the pongal gift and cash of Rs.1,000/- to cardholders of all the families revolves round the District Collectors. As regards Chennai, the Officers responsible for of the Commissioner North/South for execution of this work under the direct control of the Commissioner, Distribution of Foodstuff and consumer Protection Department. This task is to be commenced on 07.01.2019 and concluded completely before Pongal.

It is also indicated in the said circular that the package of pongal gift and the amount of Rs.1,000/- in cash should be distributed to the cardholders simultaneously and the amount of Rs.1,000/- to be

<http://www.judis.nic.in> distributed in the package of pongal gift shall be distributed by two

currencies of Rs.500/- each transparently, to the extent possible. The amount in cash shall not be distributed by thrusting the same into covers, for any reason whatsoever and the package of pongal gift and cash of Rs.1,000/- shall be distributed only after registering the smart cards. In cases where such cards are not available, the pongal gift package may be given on the basis of Aadhar Card or on the basis of One Time Password received in the registered cell phone of any one person found in the family cards.

13. As per the affidavit, there are 2.50 Crores of cardholders in the State of Tamil Nadu and if they are distributed with Rs.1,000/- as cash gift, then the financial implication will be around Rs.2500 Crores. It is to be remembered at this juncture that it is a public money sought to be distributed in the form of cash freebies and as already pointed out that even after 70 years of independence, the residents of the State are yet to be provided with full basic and necessary amenities. As rightly pointed out by the learned counsel for the petitioner, though it is a policy decision, the circular do not indicate as to the rationale / object sought to be achieved for distribution of Rs.1,000/- to all the cardholders irrespective of their financial / social status.

14. This Court is of the *prima facie* opinion that it is nothing but a wastage of public money for non productive purpose. This Court is of

the considered opinion that a *prima facie* case has been made out for grant of interim orders, in the light of the above reasons.

15. Hence, there shall be an order of ad-interim stay insofar as the distribution of Rs.1,000/- to NPHH-S and NC category of cardholders.

Call on 06.02.2019.

[M.S.N., J.] [P.R.M., J.]
04.01.2019

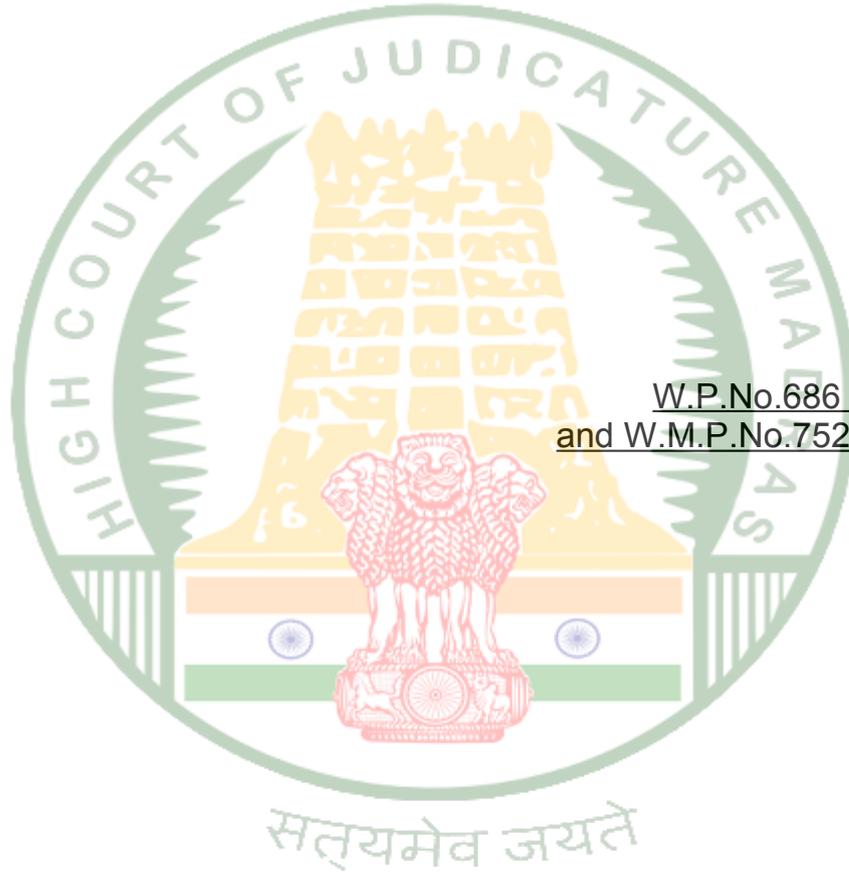
sk



WEB COPY

M.SATHYANARAYANAN, J.,
AND
P.RAJAMANICKAM, J.,

sk



W.P.No.686 of 2019
and W.M.P.No.752 of 2019

WEB COPY

09.01.2019