

News

Party politics cannot supersede fundamental rights: Kerala High Court halts Wayanad victims' loan recovery while the Center denies a waiver



The Court did not order the Central government to take any action on the loan forgiveness.

Nonetheless, it urged 12 institutions from the public and commercial sectors to submit a full or partial answer regarding the loan forgiveness.

The recovery of loans from victims of the Wayanad landslides in 2024 was put on hold by the Kerala High Court on Wednesday [In Re: Prevention and Management of Natural Disasters in

Kerala].

Despite the Central government's refusal to permit loan waivers, a Division Bench consisting of Justices AK Jayasankaran Nambiar and Jobin Sebastian issued an order halting the loan recovery procedures.

while considering the suo motu case that was started to deal with the rehabilitation of the victims of the Wayanad disaster.

Twelve significant banks were pleaded as additional respondents, including the State Bank of India, Bank of Baroda, Canara Bank, Punjab National Bank, Indian Bank, Federal Bank, and Kerala Gramin Bank. They were instructed to submit counter-affidavits stating whether they were willing to waive loans in full or in part.

The Bench further stated that after presenting appropriate evidence for pursuing the loan recovery process, the banks may attempt to amend the Court's stay order.

"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," the Supreme Court stated.

Following the Central government's submission of an affidavit claiming that loan waivers were not permitted under the Reserve Bank of India's Master Directions on Relief Measures by Banks in Areas Affected by Natural Calamities (2018), the Court made its observation.

Public sector banks were independent commercial enterprises, answerable to their shareholders, and the central government could not meddle in their business decisions, according to the affidavit.

Citing Article 73 of the Constitution, which gave the Central government the authority to step in under extreme circumstances like natural disasters, especially when the lives and dignity of the populace were in jeopardy, the Court rejected this position.

It added that even though the Wayanad landslide was classified as a "severe" disaster under the Disaster Management Act of 2005, the Central government refused to offer loan waivers or other forms of financial assistance to the victims, despite the fact that comparable assistance had been given in other places.

The Court criticized the Union government for its disproportionate treatment and reminded them of Part III of the Constitution, which imposed a duty on the "state," including the legislative, executive, and judicial branches, to protect the fundamental rights of the citizens, even though it refrained from giving orders to the Central government, emphasizing the principle of separation of powers.

"The Union Government cannot treat citizens of any state differently in accordance with the federal ideal envisioned by the Constitution. In a democratic republic, the constitutional guarantee of protection of the people's fundamental rights cannot be undermined by party politics. The Bench stated that the Wayanad landslide victims' fundamental right to a dignified existence is at issue in this particular instance.

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Kerala High Court to the Center

As a result, the Court ordered a halt to all bank recovery efforts against the landslide victims while the case was being processed.

After two weeks, the case was posted for another hearing.

The State of Kerala was represented by Advocate General **Gopalakrishna Kurup**.