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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 20.04.2009

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W.P. (C) 1482/2007

AKHIL BHARTIYA LOK KALYAN PARI

..... Petitioner

Through: Ms. Aanchal Malik, Advocate.

versus

UOI & ANR.

..... Respondents

Through: Mr. Yogesh Malhotra, Advocate
for Resp-1.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

S.RAVINDRA BHAT, J.

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The petitioner seeks the following reliefs: -

- a) direct respondent No.1 to approve the grant-in-aid of the petitioner de hors the date of 31.3.2006;

In the alternative consider the applications filed by the petitioner as

pending applications and grant approval thereon.

(b) direct the respondents to produce the documents of the petitioner.

2. In this Writ Petition, the petitioner is aggrieved by introduction of the new procedure of the Union Ministry of Youth Affairs and Sports for disbursement of grant in aid. The new scheme was indicated in the guidelines issued on 1.5.2006 (hereafter called as the impugned letter). The petitioner contends being a consortium for Voluntary Organizations with its office at Uttar Pradesh. Its members have been recipient of grant in aid from the respondent – Union Ministry of Youth Affairs and Sports for a considerable period of time. It is claimed that the petitioner's application for release of grant was pending and a meeting was held on 21.7.2005 where the application was approved after deficiencies were cleared.

3. The petitioner contends that on 30.1.2006 certain further deficiencies were pointed out which were promptly attended to on 10.2.2006. In the meanwhile on 29.3.2006, National Service Scheme (NSS), an official scheme which the petitioner characterizes to be an NGO was sanctioned an amount of Rs.65,42,500/-. The petitioner further states that another Organization i.e. Nehru Yuva Kendra Sangathan, New Delhi has been sanctioned Rs.5,47,403/- and the same was released.

4. The petitioner complains that on 17.5.2006, an advertisement was issued stating that all proposals in which sanctions were not issued before the end of financial year 2005-06 were deemed to have been closed and that

the concerned NGO desirous of seeking assistance or grant, had to apply afresh according to the revised procedure. It is submitted that the petitioner had already applied and attended to the deficiencies pointed out, after which the authorities could not have by a uniform fiat deemed all applications, to which amounts were not disbursed as closed. The petitioner refers to Clause-4 of the previous guidelines, which had spelt out the eligibility conditions contending that it fully satisfied them and was, therefore, entitled to be released with the amounts. It is alleged that the impugned procedure particularly the conditions stating that all pending but non-sanctioned proposals would have to be processed afresh is arbitrary and unreasonable.

5. The respondents in their return submit that the new procedure became necessary since during a random check of proposals carried out in August – September, 2005, it was noticed that signatures of the recommending authorities were forged. The Union Ministry of Youth Affairs and Sports found it difficult to ascertain the genuineness and credibility of information and documents pertaining to the NGOs concerned. It is contended that a majority of the applications were, therefore, found to be deficient and not worth processing. In these circumstances, a conscious decision was taken that the process of submission of proposal by voluntary agencies and NGOs as well as consideration for sanction of funds had to be streamlined with a view to bring in uniformity and transparency. To achieve these objectives, the impugned guidelines containing the revised procedure were issued.

6. It is submitted that the condition with regard to the lapsing or closure

of pending applications, and with the further requirement that such applicants had to submit fresh proposals, is neither arbitrary nor unreasonable.

7. The impugned procedure contained in the letter dated 1.5.2006 to the extent it is relevant reads as follows: -

"2. With a view to further streamlining the procedure and to bring in uniformity across the schemes, it has been decided to implement w.e.f. 2006-07, the revised procedure as indicated below: -

- i. The Ministry will invite applications from NGOs after giving advertisement in newspapers. A copy of the draft advertisement is enclosed. There is no change in the proforma of the application. The applicant NGOs will be required to submit proposals in triplicate to the prescribed recommending authorities under the scheme.*
- ii. The recommending authority will forward NGO applications in duplicate to the Secretary Youth Affairs in their respective State Governments/UT Administration after verification and counter signing as required under the scheme. The last date of receipt of application by State/UT Government is 30th June, 2006 for current financial year.*
- iii. The State Government/UT Administration will constitute a State/UT Level Screening Committee (SLSC) under the chairpersonship of the Secretary, Youth Affairs in the State/UT for screening, scrutiny, pre-appraisal, technical feasibility etc. of these proposals. The following officials/non-officials may be considered for inclusion in the SLSC.*
 - (a) Vice Chancellor/Head of any reputed educational institution.*
 - (b) Zonal Director, Nehru Yuva Kendra Sanghatan.*
 - (c) One non-official representing NGO/Civil Society, who is not a beneficiary applicant.*
 - (d) Director, Youth Affairs (member-convener).*
- iv. The SLSC will examine the proposals on the basis of technical*

capability, availability of infrastructure, trained manpower for the proposed activity and past performance/credibility of the NGO including their financial soundness/non-involvement in the anti-social or anti-national activities. The SLSC will shortlist a limited number of proposals commensurate with the tentative state-wise allocation.

- v. Any proposal received directly in the Ministry during 2006-07 from 1st April to 30th June, 2006 will be referred back to the State Government for their consideration by SLSC under intimation to the applicant. Proposals of NGOs received thereafter will be returned to the applicant.*
- vi. The State Government will forward proposals short-listed by the SLCC in single copy to Government of India, scheme-wise, as mentioned below. IT will also indicate the priority in which the proposals may be considered by the Government of India. The last date of receipt of application by Government of India is 30th July 2006.*

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- vii. Proposals of Nehru Yuva Kendra Sangathan, National Service Scheme, Central Organizations/Central Universities including Association of Indian Universities, Sports Authority of India, Bharat Scouts & Guides will be entertained directly by the Ministry provided the proposal is self-appraised by their respective head offices. In the scheme for Promotion of Adventure, proposals from Himalayan Mountaineering Institute, Jawahar Institute of Mountaineering and Winter Sports, Indian Mountaineering Foundation will also be considered directly by the Ministry;*
- viii. All India NGOs (hereinafter referred as 'Consultative NGO' will also be allowed to submit proposals directly to the Ministry. For this purpose, an Expert Group will be constituted by the Ministry who, on the basis of specific performance benchmarks to be laid down in advance, will notify such NGOs for a fixed time period and such NGO will require renewal thereafter for availing the benefit of applying directly. A copy of the draft advertisement inviting applications for empanelment as Consultative NGO is also enclosed.*

- ix. *The proposals recommended by the State Governments/received directly from the notified institutions will be valid for relevant financial year only and will not be carried forward to the next financial year*
- x. *The proposals received in the Ministry will be considered by a Grants-in-Aid Committee (GIAC), constituted for the purpose. Any proposal recommended by GIAC, if for some reasons cannot be sanctioned, will be informed to the GIAC whereafter alternative proposals can be considered.*
- xi. *All proposals pending in the Ministry including those approved by GIAC but financial sanction order not issued before end of financial year 2005-06 due to non-availability of funds, incomplete documents etc. or for any other reasons are deemed to have been closed. Such applicant NGOs will have to apply afresh for consideration."*

8. The Court has considered submissions of the parties. The respondents do not dispute that the petitioner's application as pending for disbursement of the grant. It is not also denied that on 2.7.2005 a decision was taken with regard to the petitioner's counseling centre and residential camp; a document indicates the amount which was *prima facie* to be released. In these circumstances, the question is whether the revised procedure is in any manner arbitrary or illegal as is contended.

9. The petitioner does not in this case anywhere submit that the amounts which it sought for were a consequence of its entitlement flowing out of any law or civil right. All that it says is that the previous procedure whereby its applications were pending consideration and perhaps even had received advance sanction should apply. The dispute here pertains to disbursement of grant in aid (which is a form of largesse by the respondents) for promotion of youth development. Of course even in this field, the Union and other said

agencies have to act in a fair and reasonable manner. This would equally apply while evolving the procedure as well as while applying it. In this case, the Union's concern for evolving a new procedure was to ensure that the funds were not misused by Organizations, whose credentials were suspect. In 2005-2006, several applications which did not deserve to be considered have been processed and sent by the State authorities.

10. Keeping this in mind, the Central Government pertinently perhaps framed the guidelines on 1.5.2006. While there cannot be any doubt that a genuine Organization whose application is pending for some time and perhaps has been recipient of aid or funds from the respondents, would be put to hardship, that factor alone cannot vitiate the decision taken to apply the freshly evolved criteria in a uniform manner. After all in such cases, one of the pre-dominant considerations would be to ensure that amounts are received by genuine Organizations after following the prescribed procedures and necessary safeguards. That balancing exercise is carried by the State agency – in this case is Ministry of Youth Affairs and Sports. As stated earlier while conceding that some Organizations – perhaps even the petitioner might face difficulty in going through the procedure afresh that itself cannot be a ground for concluding that evaluation of applications by a new procedure is arbitrary, since, it is otherwise in the larger public interest. Similarly not providing for a transition clause enabling processing of pending applications through pre-existing procedures by itself cannot be termed as unreasonable or arbitrary; this is a conscious executive choice over which

the Courts would be slow in interfering while exercising their judicial review powers under Article 226 of the Constitution of India.

11. For the above reasons, the relief claimed cannot be granted. The Writ Petition has to fail. It is accordingly dismissed.

**S. RAVINDRA BHAT
(JUDGE)**

APRIL 20, 2009
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