

THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment delivered on: 29.08.2014

+ **W.P.(C) 12896/2009**

KANGRA HERB PVT LTD.

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr H.K. Monga and Mr Mohit Monga.

For the Respondents : Mr Sanjay Jain, ASG with Mr R Mishra,
: Mr Sanjiv Kr Saxena, Mr Mukesh Kr Tiwari
: and Mr Vidhur.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J (ORAL)

1. The petitioner has filed the present petition *inter alia* praying that the respondents may be directed to sanction and release an amount of ₹400 lacs to the petitioner company along with damages of ₹50 lakhs.

2. The principal controversy in the present petition is whether the case of the petitioner had been recommended by respondent No.4 - Government of Himachal Pradesh for disbursement of ₹400 lacs under a scheme sponsored by the Central Government.

3. The learned counsel for the petitioner submitted that after due appraisal of the petitioner's project, respondent no.4 had recommended a

sum of ₹400 lacs to be paid as subsidy under the said scheme. However, respondent No.2 - Ministry of Agriculture had only disbursed a sum of ₹3,13,38,000/-. The learned counsel for the petitioner referred to an undated letter (annexed as Annexure P-14 to the petition) and submitted that the said letter sent by Director Horticulture, Himachal Pradesh to the Additional Commissioner, Ministry of Agriculture, Government of India, clearly indicated that a sum of ₹400 lacs was recommended to be disbursed to the petitioner.

4. The respondent nos.1 and 2 dispute that a recommendation for disbursement of ₹400 lacs was ever received by the said respondent.

5. I have heard the counsel for the parties.

6. The short question to be addressed is whether the Government of Himachal Pradesh had appraised petitioner's project and recommended a subsidy of ₹400 lacs.

7. The Government of India, Ministry of Food Processing Industry – respondent no. 1 herein, launched a scheme known as “Technology Mission for Integrated Development of Horticulture in North Eastern States including Sikkim, Jammu & Kashmir, Himachal and Uttarakhand”. The financial outlay provided for the said scheme was to be expended in four “Mini Missions”. Mini Mission – IV related to foods processing industry.

8. It was explained that recommendations for disbursement of subsidy were to be made by State Level Steering Committees (SLSC) of the respective hill states after appraisal of the eligible projects. The Project Approval

Committee (PAC) constituted by respondent nos.1 and 2 were to examine the recommendations and, if approved, disburse the amounts. It was stated that 50% of the amount was to be disbursed initially and the balance 50% of the amount approved would be disbursed after a joint inspection.

9. The relevant extract of the undated letter (annexed as P-14 to the petition), which indicated that the petitioner's case was recommended for a subsidy of ₹400 lacs reads as under:-

“Kindly refer to your letter no.40-3/2009 Hor. PM dated 20th April, 2009 on the subject cited above vide which the representation received from Mr. Ra.Si.Guleria, Managing Director, M/s. Kangra Herbs Pvt. Ltd., Vill. Dargella, Distt. Kangra has been enclosed.

In this context the SLSC for Horticulture Technology Mission the Department of Horticulture Himachal Pradesh has already recommended to the Ministry of Food Processing Industries, GOI, to release the approval amount of Rs.400 lakhs in favour of the Managing Director of Kangra Herbs Pvt. Ltd for the project (copy of correspondence enclosed)

XXXX

XXXX

XXXX

XXXX

XXXX

You are therefore, requested to consider representation positively and be releasing full subsidy to the said firm at the earliest under Mini Mission.”

10. A perusal of the above letter indicates that it was sent in response to a letter dated 20.04.2009 pursuant to a representation received from the petitioner. The letter indicates that the State Level Steering Committee (SLSC) for Horticulture Technology Mission, Department of Horticulture, Himachal Pradesh had recommended approval of an amount of ₹400 lacs in favour of the petitioner company.

11. According to the respondents nos. 1 and 2, recommendation for only a sum of ₹3,13,38,000/- was received from the SLSC of Himachal Pradesh. Initially, a sum of ₹2,85,43,000/- was apprised by the Project Approval Committee (PAC) and 50% of that amount - ₹1,42,71,000/- was disbursed to the petitioner. Subsequently, joint inspections were conducted and it was found that the initial recommendation made by the SLSC was justified. Accordingly, the Project Approval Committee had disbursed a further sum of ₹1,70,67,000/- to the petitioner.

12. The respondent No.4 - State Government of Himachal Pradesh had filed its counter affidavit and has produced the recommendation made by SLSC on 10.07.2007. The relevant extract of the said letter is quoted below:-

“I am directed to forward herewith project proposal under Mini-Mission-IV of Horticulture Technology Mission after getting it approved from the State Project Approval Committee for consideration and approval:

Sr. No.	Name of the Project Proposal	Details of the Projects/Assistance required under Mini Mission-IV of HTM from Ministry of Food Processing, Govt. of India
1	M/s Kangra herbs Pvt. Ltd. Village Dargella for the Establishment of HI-Tech value added Herbal Organic Food Unit District Kangra	Total Cost of Project:- Rs.848.41 lacs Means of Finance:- Promoter's Share/contribution: Rs.170.00 lac Term Loan from Bank: Rs.175.00 lac SFAC Loan: Rs. 75.00 lac Short Term Unsecured Loans Rs.428.41 lac Funds Requirement MFP: Rs.313.38 lac

This Project Proposal has been approved by the Chief Secretary to the Government of Himachal Pradesh being the Chairman of the State Level Steering Committee of Horticulture Technology Mission.”

13. As the said recommendation and a letter dated 10.07.2007 relied

upon by the respondent No.4 was at variance with the record of the petitioner, this court had directed the respondent No.4 to file an affidavit explaining the same. Respondent No.4 has filed an affidavit indicating that the mention of the sum of ₹400 lacs in the undated letter referred to by the petitioner was an inadvertent error and the letter dated 10.07.2007 reflects the recommendation made by SLSC of Himachal Pradesh.

14. It is apparent that the undated letter (Annexure P-14) referred to by the petitioner is not the letter making the SLSC's recommendation. The said letter only mentions that a recommendation had been made. The letter dated 10.07.2007 is the letter that was forwarded to respondent Nos. 1 & 2. In this view, there can be no dispute that SLSC of Himachal Pradesh had not recommended a sum of ₹400 lacs for disbursal to the PAC. As the procedure now stands PAC was required to examine the recommendation and this was, undeniably, done. The amount as recommended by the SLSC of Himachal Pradesh has since been disbursed.

15. The learned ASG has further drawn the attention of this court to the minutes of a meeting of the PAC held on 21.06.2012. These minutes indicate that PAC had further examined the case of the petitioner and had found that the amount of subsidy could be enhanced to ₹3,42,15,711. The learned ASG states that the balance amount could be disbursed provided the same is recommended by the SLSC of Himachal Pradesh.

16. In the given circumstances, the prayer made by the petitioner for disbursal of the amount of ₹400 lakhs is not justified. However, the petitioner is at liberty to approach the State Government for recommending

its case for the enhanced amount as already appraised by PAC. It is expected that if such a recommendation is made to the PAC then the same would be disbursed without any further delay.

17. The present petition is dismissed with the aforesaid direction.

VIBHU BAKHRU, J

AUGUST 29, 2014

pkv

