

GAHC010115412015



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/2300/2015

ON THE DEATH OF TEZPAL MINDA HIS LEGAL HEIRS SMT. SHAKUNTALA MINDA AND 3 ORS.

W/O- LT. TEZPAL MINDA, R/O GUWAHATI HAVING ADDRESS C/O LT. TEZPAL MINDA, BHANGAGARH, GMCH ROAD, GHY-5

2: VIKAS MINDA

S/O LT. TEZPAL MINDA

R/O GUWAHATI HAVING ADDRESS C/O LT. TEZPAL MINDA

BHANGAGARH

GMCH ROAD

GHY-5

3: VANDANA MINDA HEDA

D/O LT. TEZPAL MINDA

R/O GUWAHATI HAVING ADDRESS C/O LT. TEZPAL MINDA

BHANGAGARH

GMCH ROAD

GHY-5

4: BARKHA MINDA

D/O LT. TEZPAL MINDA

R/O GUWAHATI HAVING ADDRESS C/O LT. TEZPAL MINDA

BHANGAGARH

GMCH ROAD

GHY-

VERSUS

THE STATE OF ASSAM AND 4 ORS

REP. BY THE COMMISSIONER and SECY. TO THE GOVT. OF ASSAM, DEPTT. OF INDUSTRIES, DISPUR.

2: THE COMMISSIONER

INDUTRIES AND COMMERCE

ASSAM UDYOG BHAWAN
BAMUNIMAIDAN
GHY- 21.

3:THE DIRECTORATE OF INDUSTRIES
GOVT. OF ASSAM
BAMUNIMAIDAN
GHY- 21.

4:THE DIST. INDUSTRIES CENTRE
BAMUNIMAIDAN
GHY- 21.

5:GENERAL MANAGER
DIST. INDUSTRY AND COMMERCE CENTRE
KAMRUP
BAMUNIMAIDAM
GHY- 21

Advocate for the Petitioner : MR.G DAS, MR.L TALUKDAR,MRC KALITA,MR.M DAS

Advocate for the Respondent : ,MR.S CHAMARIA(R1-5),SC, INDUSTRIES

BEFORE
HONOURABLE MR. JUSTICE ARUN DEV CHOUDHURY

ORDER

Date : 11.09.2024

Heard Mr. G Das, learned counsel for the petitioner. Also heard Mr. A Kalita, learned standing counsel, Industrial and Commerce Department

The present writ petition is filed claiming "Interest subsidy" and "Power subsidy", amounting to Rs.41,989/- and Rs.1,20,564/- respectively.

It is the case of the petitioner that such subsidy is approved by the District Level committee Meeting held on

01.03.2007, however, such amount has not been paid to the petitioner till date.

In respect of such contention the learned counsel for the petitioner refers to Annexure – 3 & Annexure – 4 communication issued by the General Manager, District Industries & Commerce Center, Kamrup, whereby it was intimated to the petitioner that the District Level Committee in its meeting held on 01.03.2007 has recommended payment of Rs.41,989.00 on working capital subsidy for the period from March 1988 to March 1991 and in the said meeting it was also recommended for payment of Rs.1,20,560/- as power subsidy for period with effect from 31.10.1990 to 31.01.1991.

The respondent Industries and Commerce Department has filed an affidavit, wherein they have brought the minutes of the meeting dated 01.03.2007. From the minutes it is seen that an amount of Rs.41,989.00 was recommended in favour of the petitioner by the said committee against interest subsidy.

It is the stand of the respondent authority that by a communication dated 20.08.2014 a request was made to the petitioner to submit certain documents for release of the amount already recommended. It is contended by the respondent authorities that as no materials/documents were submitted within stipulated time by the petitioner and some other similarly situated organizations, the cheques were cancelled and a request was made to the Bank to remit it back to Government account. Accordingly the said banker cheques issued in favour of different beneficiaries were deposited in the account of the government head. Therefore, Mr. A Kalita learned

standing counsel Industries argues that in view of the aforesaid, the right of the petitioner has been extinguished and a writ cannot be issued as on date for reimbursement of such amount at this belated stage and there shall not be any possibility of payment of such subsidy at this stage.

So far relating to the electricity subsidy, the minutes of the committee dated 01.03.2007 reflects that no subsidy was specified or earmarked against the petitioner for the reason of disconnection of the electricity connection of the petitioner's unit was a subject matter of dispute in a writ proceeding, inasmuch as, from the record it is discernible that the Assam State Electricity Board sought to disconnect the electricity connection to the petitioner's unit for non-payment of bills. Therefore, according to the stand of the Industries department, such payment could not be made in absence of proof of payment made against electricity to the ASEB.

Though the learned counsel for the petitioner has projected that the dispute with the electricity has been resolved, however, the Annexure-A annexed to the affidavit shows that there was a proposal of settlement by the Additional Chief Engineer, ASEB on 04.08.2004, however there is nothing on record to show that such proposal was finalized and the petitioner had paid the electrical due to the ASEB so that he can be disbursed the electrical subsidy.

Therefore, the stand of the respondent that for want of material, subsidy could not be granted, can't be held to be arbitrary or irrational action. Therefore, in absence of any arbitrariness and violation of the petitioner's right, this court cannot issue a writ of

mandamus to pay the capital subsidy for the year of 31.10.1990 to 31.01.1991. So far relating to Electricity subsidy, this court cannot also find fault with the respondent authorities, more particularly, when no proof was available before the authority as regards the factum of payment of electricity by the petitioner's unit to the electricity board so as to calculate the subsidy and pay thereof, inasmuch as it is a condition precedent under the scheme to grant a subsidy when electricity is consumed and payment is made.

In view of the aforesaid, this court finds no illegality in the action of the respondent state. Accordingly, the writ petition stands dismissed.

JUDGE

Comparing Assistant