

GAHC010207812016



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

Case No. : WP(C)/6359/2016

M/S. RIVER VALLEY TEA COMPANY PRIVATE LIMITED and ANR.
HAVING ITS REGISTERED OFFICE AT THANA ROAD, P.O. and DIST.
TINSUKIA, ASAM-786125, REP. BY ITS DIRECTOR, SRI MAHENDRA KUMAR
AGARWALLA SON OF LT. PARSHURAM AGARWALLA R/O BISHMILE, P.O.
CHABUA DIST. DIBRUGARH, ASSAM.

2: SRI MAHENDRA KUMAR AGARWALLA
S/O LT. PARSHURAM AGARWALLA R/O BISHMILE
P.O. CHABUA DIST. DIBRUGARH
ASSAM EMPLOYED AS DIRECTOR
RIVER VALLEY TEA COMPANY PVT. LTD

VERSUS

TEA BOARD OF INDIA and 3 ORS
REP. BY THE CHAIRMAN, MINISTRY, GOVT. OF INDIA, 14 B.T.M. SARANI
BRABOURNE ROAD KOLKATA- 700001.

2:THE DIRECTOR

TEA DEVELOPMENT
TEA BOARD OF INDIA
14
B.T.M. SARANI BRABOURNE ROAD
KOLKATA- 700001.

3:THE EXECUTIVE DIRECTOR

TEA BOARD OF INIDA
MINISTRY OF COMMERCE AND INDUSTRY
GOVT.OF INDIA
NORTH-EAST ZONL OFFICE
5TH and 6TH FLOOR
HOUSEFED COMPLEX

CENTRAL BLOCK
BELTOLA
BASISTHA ROAD
DISPUR
GUWAHATI- 781006.

4:THE DEPUTY DIRECTOR

TEA DEVELOPMENT
TEA BOARD OF INDIA
MINISTRY OF COMMERCE AND INDUSTRY
GOVT. OF INDIA
NORTH-EAST ZONAL OFFICE
5TH and 6TH FLOOR
HOUSEFED COMPLEX
CENTRAL BLOCK
BELTOLA
BASISTHA ROAD
DISPUR
GUWAHATI - 781006

Advocate for the Petitioner : MR.T N SRINIVASAN, MRP BHARDWAJ,MR.M K CHOUDHURY,MR.N BARUAH,MR.A BARKATAKI,MS.A CHOUDHURY

Advocate for the Respondent : MR. S C KEYAL, MR. N J GOGOI (SC, TEA BOARD),,,,,

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

29.08.2024

1. Mr. M. Sharma, learned counsel appears on behalf of Mr. P. Bhardwaj, learned counsel for the petitioners, while Mr. S.C. Keyal, learned counsel appears for all the respondents.

2. The petitioner no.1 is a private Tea Company and the petitioner no.2 is one of the Directors of the Tea Company. It's basic grievance is that they have

not been paid 30% subsidy, in terms of the Tea Development & Promotion Scheme under the XII Plan Period (hereinafter referred to as the XII Scheme). The petitioners are aggrieved by the fact that they have been given the subsidy as per XI Plan Period (hereinafter referred to as the XI Scheme) and not as per the XII Scheme.

3. The petitioners' counsel submits that the XII Scheme of the Tea Development & Promotion Scheme came into effect from 10.12.2014 instead of 01.04.2015. In terms of the unit cost of uprooting and replanting subsidy of tea bushes for the State of Assam, a subsidy amount of Rs.1,90,137/- per hectare was given to the planters, after uprooting and replanting of the tea bushes.

4. The petitioners applied for grant of the 30% of the subsidy as per XI Scheme, for uprooting and replanting of tea bushes, vide letter dated 23.11.2012 in respect of Section 25(P) and Section 16 of the tea garden.

5. The Tea Board of India, vide letter dated 12.12.2012, informed the petitioners that there was no objection certificate (NOC in short) to the petitioners commencing the uprooting of tea bushes in respect of Section 16 comprising of 18.43 hectares and Section 25(P) comprising of 16.26 hectares.

6. The petitioners' counsel submits that uprooting of the tea bushes from Section 25(P) and Section 16, pursuant to the letter dated 12.12.2012, was completed on 30.12.2012 and 15.01.2013 respectively. Further, the replanting of the tea bushes in respect of Section 25(P) was completed on 30.04.2013, while

replanting of tea bushes for Section 16 was completed on 10.04.2015.

7. The petitioners' counsel submits that the time schedule for replanting of tea bushes is implied in Clause C(3) of the XII Scheme, which states that replacement planting is to be completed within 6 months from the issuance of the NOC.

8. The petitioners' counsel submits that as the petitioners had completed the replanting of the tea bushes only after the XII Scheme came into effect on 10.12.2014, though it was way beyond the period provided under Clause C(3) of the XII Scheme, the petitioners would have to be given subsidy for uprooting and replanting of tea bushes in terms of the XII Scheme. He accordingly submits that a direction to that effect should be issued to the respondents.

9. Mr. S.C. Keyal, learned counsel for all the respondents, on the other hand submits that the submission of the petitioners' counsel, read with the documents in the writ petition clearly show that the petitioners were to complete the replanting of the tea bushes within 6 months from the date of issuance of the NOC dated 12.12.2012, i.e. prior to 12.06.2013. As the petitioners did not complete replanting of the tea bushes prior to 12.06.2013, i.e. during the validity of the XI Scheme, the petitioners have no right to claim subsidy under the XII Scheme.

10. I have heard the learned counsels for the parties.

11. As can be seen from the documents on record, the petitioners were given No Objection Certificate to uproot and replant the tea bushes vide letter dated 12.12.2012 in respect of Section 16 and Section 25(P) of the tea garden.

12. Clause C(3) of the XII Scheme states as follows :

“Uprooting will have to be completed by 31st March of the financial year for which the application has been submitted. Replacement planting to be completed within 6 months from the issuance of NOC.”

13. The report made with respect to the uprooting and replanting of the tea bushes in respect of Section 25(P) and Section 16 of the petitioners tea garden, subsequent to the NOC dated 12.12.2012 given by the respondents, states as follows :

“Area for which subsidy is sought for

Sl. No. Sec. No.	Activity	Area in HA	Date of comm.	Date of comp.	Uprooted on	
			Replantation		Date of_ comm.	Date of_ comp.
25(P)	Uprooting	16.26			15.12.2012	30.12.2012
	Replanting		10.03.2013	30.04.2013		
16	Uprooting	18.43	15.03.2015	10.04.2015	31.12.2012	15.01.2013

“

14. The 30% subsidy to be given as per the XI Scheme is @ Rs.89,650 per hectare, while subsidy is Rs.1,90,137/- per hectare in terms of the XII Scheme.

15. The report with regard to Section 25(P) shows that uprooting and replanting of tea bushes was completed by 30.04.2013 during the validity of the XI Scheme. However, in respect of Section 16 of the petitioners tea garden, the

uprooting of tea bushes had been completed on 15.01.2013 and in terms of Clause C(3) of the XII Scheme, the petitioners were to complete the replanting of the tea bushes by 31.03.2013 and at best by 12.06.2013. Even if this Court is to assume that the replanting was to be completed by the end of the next financial, i.e. 31.03.2014, the petitioner did not complete the replanting on time, as the replanting was completed only on 10.04.2015. The XII Scheme came into effect only from 10.12.2014. As the petitioners did not complete the replanting of the tea bushes in terms of Clause C(3) of the XII Scheme, there is nothing to show that the petitioners have any right to claim any subsidy in terms of the XII Scheme. Further, the petitioners have not annexed any other document to show that they have any right to be given subsidy as per the XII Scheme. Only because they completed the replanting of the tea bushes after the XII Scheme came into effect, does not give them any automatic right to claim subsidy under the XII Scheme. In any event, the reasoning of the petitioners for claiming the subsidy under the XII Scheme appears to be flawed. This is due to the fact that assuming the petitioners had completed their replanting after 20 years, would it be reasonable to expect the petitioners to be given subsidy for a subsequent scheme that may be made, only because the petitioners had not followed the time line fixed as per the earlier scheme. Consequently, this Court does not find any ground to exercise it's discretion in this writ petition.

16. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant