IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6245 of 2011

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Kamal Nayan Sharma, son of Late Ram Jatan Sharma, resident of Village-Kurtha, P.S. Hilsa, Distt. Nalanda

.... Petitioner

Versus

1. The State of Bihar through Principal Secretary, Agriculture Department, Bihar, Patna
2. The Director, Agriculture Department, Bihar, Patna
3. The Additional Agriculture Director, Patna, Patna Commissionary, Patna
4. The District Magistrate Nalanda at Biharsharif
5. The District Agriculture Officer, Nalanda at Biharsharif
6. The Block Development Officer, Hilsa, District Nalanda at Biharsharif
7. The Branch Manager Allahabad Bank Milkipar (Hilsa) Branch District Nalanda at Biharsharif

.... Respondents

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Appearance:

For the Petitioner : Mr. Shivendra Kumar Sinha, Adv.
For the Allahabad Bank : Mr. Ajay Kumar Sinha, Adv.
For the State : Mr. Kameshwar Prasad Gupta, GP-10

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 20-10-2016

Heard learned counsel for the petitioner, learned counsel for the Allahabad Bank and learned counsel for the State.

2. The present writ petition has been filed for quashing the demand notice issued by the Allahabad Bank, Milkipar (Hilsa) (Annexure-9) by which the bank has required the petitioner to make payment of an amount of Rs. 78,183/- with interest relating to a loan for purchase of a power tiller.

3. Learned counsel for the petitioner submits that the petitioner filed an application on 24.05.2008 for purchase of a power

tiller pursuant to Micromode (Krishi Yantrikaran) 2008-09 Scheme, and accordingly, the Block Development Officer, Hilsa sent a letter No. 1125 dated 24.05.2008 to the District Agriculture Officer forwarding the names of the applicants including the petitioner for further action under the scheme. A loan was duly sanctioned by the Allahabad Bank and the petitioner purchased the power tiller in the year 2008 itself from M/s Viki Enterprises. In terms of the scheme, the petitioner was entitled to an amount of Rs. 60,000/- by way of subsidy which was to be remitted by the State Government to the concerned Bank for adjustment against the loan amount. The petitioner accordingly made repayment of the remaining amount of the loan. Despite requests by the petitioner, however, the Bank delayed sending the claim letter for the subsidy receivable from the State Government and finally the Bank sent its letter dated 17.06.2009 to the District Agriculture Officer requesting for payment of the subsidy amount. It is therefore submitted that the Bank acted negligently and failed to send its requisition for the subsidy within the financial year 2008-09, by reason of which the subsidy amount was not paid by the State Government.

4. Learned counsel for the Bank submits that under the road map relating to the Micromode Scheme, it was the responsibility of the District Agriculture Officer to maintain the register of applicants under the scheme and the list of eligible applicants was required to be sent to the Bank. The Bank had duly sanctioned the loan in favour of

the petitioner and thereby the asset had been created. It is submitted that thereafter the entire responsibility lay at the door of the District Agriculture Officer to implement the scheme and make payment of the subsidy to the Bank in the petitioner's favour. It is further submitted that mere delay on the Bank's part in sending the requisition for the subsidy should not have precluded the District Agriculture Officer from making provision for the subsidy out of the sanctioned funds received for the purpose within the financial year. It is finally submitted that owing to non-receipt of the subsidy amount, a part of the loan amount remained outstanding which the petitioner was obliged to repay in terms of the impugned demand notice.

5. Learned counsel for the State, on the other hand, submits that Micromode Scheme was itself operational for a limited period namely, for the financial year 2008-09 and all claims thereunder had to be processed within the financial year itself. In view of the Bank's failure to send the intimation/requisition with regard to the petitioner's power tiller, the subsidy amount could not be provided within the financial year. It is stated that out of the total allotted funds of Rs. 1,89,65,000/- under the Micromode Scheme for the Financial Year 2008-09, a total amount of Rs. 1,89,64,352/- had been withdrawn and utilised by the District Agriculture Officer leaving only a balance of Rs. 648/- which was duly returned to the State Government within the said financial year itself. This is apparent from letter no. 230 dated

18.03.2009 (Annexures A and B to the 3rd supplementary counter affidavit filed on behalf of respondent No. 5). It is further stated that the subsidy amount could not be paid out of the allotted funds of the subsequent financial year 2010-11 in terms of the State Government's letter dated 09.03.2011 (Annexure-A/1 to the supplementary counter affidavit of respondent no. 5).

6. Having heard the parties and on a careful consideration of the materials on record, this Court finds merit in the writ petition. It is an admitted fact on record that the petitioner had been identified as an eligible applicant for the benefits under the Micromode Scheme for the financial year 2008-09. The respondent Bank sanctioned the loan in favour of the petitioner for purchase of the power tiller. It stands admitted by the Bank that there was delay on its part in sending the requisition for the subsidy receivable from the State Government, which was sent well beyond the expiry of the financial year 2008-09. The claim for payment of the subsidy was therefore refused by the State-respondents by reason of belated claim for the subsidy received from the Bank, as evident from Memo No. 787 dated 01.06.2010 written by the Joint Director Agriculture, Patna to the Director Agriculture, Patna (Annexure-7). This Court is therefore of the view that the negligent action of the Bank in not sending its requisition timely and within the financial year 2008-09 has resulted in denial of the subsidy amount in favour of the petitioner and the impugned

demand notice is now an attempt on the part of the Bank to recover the amount of the subsidy from the petitioner instead, for no fault of the petitioner. In other words, the Bank is now trying to take advantage of its own fault which is wholly impermissible. Had the Bank acted with diligence by sending the requisition well within time, the same could have been processed and the subsidy amount released in favour of the petitioner within the financial year 2008-09 itself and the loan account of the petitioner liquidated. No reason has also been assigned by the Bank for such delay which has resulted in detriment to the petitioner.

7. In the above circumstances, the impugned notice issued by the Allahabad Bank seeking to recover the amount of Rs. 78,183/- with interest from the petitioner is hereby quashed.

8. The writ petition stands allowed.

(Vikash Jain, J)

Md. Ibrarul/Chandran

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	22.10.2016
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