

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 3168 OF 2013
WITH CA/5761/2013 IN WP/3168/2013

GANESH SUDHAKAR KACHEWAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. S. B. Talekar.
AGP for Respondents : Mr. S.G. Karlekar.

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**CORAM : S. V. GANGAPURWALA &
A. M. BADAR, JJ.**

DATE : 28TH JANUARY, 2016.

PER COURT:

1] Mr. Talekar, learned counsel submits that the petitioner was sanctioned Special Capital Incentive to the extent of Rs. 16.44 Lakhs vide order dated 30.4.2011 issued by the General manager, District Industries Center, Aurangabad. The said amount of incentive was to be paid in 5 installments of Rs. 3,28,800/- each. The petitioner was paid 3 installments of the said incentives. However, vide order dated 18.3.2013, the District Industries Center directed the petitioner to deposit the amount of incentive received, so also, has not sanctioned further installments of incentives.

2] Learned counsel for petitioner submits that before taking such action, no show cause notice was ever issued to the petitioner. The petitioner has placed on record documents demonstrating that the petitioner is running the industry. The District Industries Center, after verifying the fact that the industry is running, has sanctioned the disbursement of incentive. Learned counsel submits that the impugned action is arbitrary, and without adhering to the principles of natural justice.

3] Mr. Karlekar, learned AGP submits that incentives were to be given upon fulfilling certain and conditions. Petitioner failed to fulfil the said terms and conditions. As such, it was within the power of the authority

to recall the amount of incentive. The scheme itself provided for the said action.

4] We have considered the submissions. The impugned action is based on the complaint of one Mr. Nahadi, who claimed to be the President of the Samajwadi party, Maharashtra. It also states that the enquiry was made. However, the order impugned does not depict as to the consideration that weighed with the authority while passing the said order and recalling the incentives.

5] The petitioner was also not issued any show cause notice before such action was taken. No doubt, as per clause 6 of the scheme, the authority is empowered to monitor and review the said capital incentive scheme. Even as per clause 6.4, if any of the conditions are contravened, the authority is empowered to take action. So also, as per clause 6.2, if eligible unit fails to submit information/documents, action is contemplated. Even powers are given to recall the incentives. However, when such action is taken, opportunity ought to have been given to the unit to put forth its stand. In the present case, the action is taken without issuing a show cause notice and calling for the say of the petitioner. If show cause notice would have been issued, the petitioner would have been in a position to put forth its stand.

6] In the result, we set aside the impugned notice (Exhibit A). The authority may if it so chooses, take up proceedings, however, only after issuing a show cause notice to the petitioner. After receiving reply, the authority would consider the same and may take further course of action. Writ petition is disposed of. No costs. Civil application no.5761 of 2013 stands disposed of.

[A.M. BADAR]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

grt/-