

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7654 OF 2015

VALSAD DISTRICT COOPERATIVE MILK PRODUCERS UNION LTD THROUGH
PROJECT MANAGER
VERSUS
THE CENTRAL GOVERNMENT OF INDIA THROUGH MINISTRY OF AGRICULTURAL
AND OTHERS

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Advocate for Petitioner : Mr. R.T. Nagargoje
AGP for Respondent No.1: Mr. S.B. Pulkundwar
Advocate for respondent No.2 : Mr. K.C. Sant.
None for respondent No.3.

CORAM : S.V. GANGAPURWALA
& K.K. SONAWANE, JJ.
DATE : 7TH JUNE , 2016.

PER COURT:

1] Leave to amend.

2] Mr. Nagargoje, learned counsel for the petitioner submits that the petitioner had applied for loan to the respondent No.3. Respondent No.3 sanctioned loan facility to the petitioner in November, 2011, to the tune of Rs. 100 Lakhs. The scheme of the Central Government is formulated to develop marketing infrastructure in the country to cater to the post harvest requirements of production and marketable services of various farm products, was in vogue. In the said scheme, subsidy is provided. Respondent No.2 sanctioned advanced subsidy of Rs. 24.92 Lakhs on 13.3.2012. Respondent No.3 submitted report of joint inspection and completion of the work. Respondent No.2 informed the petitioner about the rejection of the claim without notice, so also, directed the petitioner to refund the advance

subsidy granted to it.

3] Respondent No.2 also informed the respondent No.3 bank about the refund of subsidy. Learned counsel submits that even joint inspection report shows that the unit is running properly and the amount has been utilized for the purpose for which it was sanctioned. According to learned counsel for the petitioner, the petitioner is entitled for the remaining amount of subsidy.

4] Mr. Sant, learned counsel for the respondent No.2 submits that the subsidy is to be utilized as per the terms and conditions of the scheme. Petitioner, in fact, was not in need of finance. The bills which were submitted to the respondent itself showed that the same were prior to sanction of the loan. The petitioner had already installed the plant and as such, was not in need of any finances, interalia, it is submitted that the subsidy could not have been sanctioned to the petitioner. He submits that the advance subsidy is wrongly sanctioned and same is rightly recalled.

5] We have also heard Mr. Kulkarni, Advocate for respondent No.1.

6] We have considered the submissions. Respondent No.3, though served, none appears for the respondent No.3. It is not disputed that the petitioner has been sanctioned credit facility to the tune of Rs. 100 Lakhs by respondent No.3. The petitioner is a cooperative Marketing Producers Union. The unit has started functioning. As per the averments made in the petition. Petitioner unit is registered as District Level Cooperative Market

Producers Unit. Said unit runs various sub units in India. One such unit is at Dhule, which has commenced its operation in June, 2011. The joint inspection report has been submitted wherein it is stated that the unit is functioning. The ground on which the refund of subsidy amount disbursed to the petitioner is being claimed, is made clear in the affidavit in reply filed by the respondent No.2. It has been stated in the said affidavit that the scheme is back-end subsidy scheme, where the amount of subsidy is only released upon utilization of the loan amount for the project. In this case, since the project has already commenced, there is no question of availing the loan or subsidy at the completion of the project and therefore, subsidy could not have been granted.

7] Respondent No.2 has come to the conclusion probably on the basis of the bills submitted to it alongwith proposal, which are prior to the date of sanction of the loan. Respondent No.2 was claiming refund of the subsidy amount already sanctioned and disbursed and it placed its reliance on the bills submitted. In fact, the petitioner ought to have been called upon to explain about the said bills and how payment is being made. In normal course, the bank is supposed to make payment to the supplier directly that is, in case of term loans. Be that as it may, the impugned order directing refund of the subsidy amount is without seeking explanation of the petitioner. The minimum requirement of calling explanation of the petitioner ought to have been adhered to.

8] In the result, the impugned communications, as prayed, are

quashed and set aside. Respondent No.2, its authorized officer/committee shall re-consider the claim of the petitioner for grant of subsidy after seeking explanation from the petitioner and thereafter, take decision afresh with regard to grant of additional subsidy and/or refund of subsidy already granted.

9] With these directions, writ petition is disposed of. No costs.

[K.K. SONWANE]
JUDGE

[S.V. GANGAPURWALA]
JUDGE.

grt/-