IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.03.2017

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THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.4178 of 2017

Vinkem Labs Ltd.,
represented by its Managing Director
Mr. M. Perumal
AH-25, Shanti Colony
4th Avenue, Anna Nagar
Chennai - 600 040

.. Petitioner

Versus

1. Bank of India,
   Chennai Mid Corporate Branch,
   4th Floor, 'Tarapore Towers',
   826, Anna Salai
   Chennai 600 002

2. National Bank for Agriculture and Rural Development (NABARD)
   Tamil Nadu Regional Office,
   No.48, Mahatma Gandhi Road,
   Post Box No.6074, Nungambakkam,
   Chennai 600 034

Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to extend Corporate Debt Restructuring to the petitioner industry in pursuant to their letter dated 23.01.2017 and accepting disbursements linked margin as sought by the petitioners vide representations dated 04.02.2017 & 10.02.2017 within a period of three weeks.

For Petitioner : Mr.K.Venkatachalapathy, Senior Counsel for Mrs. K. Sumathi

For Respondent 1 : Mr.SA. Sathyanarayanan

ORDER

The petitioner has come up with this writ petition praying for issuing a Writ of Mandamus directing the respondents to extend Corporate Debt Restructuring to the petitioner industry in pursuant to their letter dated 23.01.2017 and accepting disbursements linked margin as sought by the petitioners vide representations dated 04.02.2017 & 10.02.2017 within a period of three weeks.

2. The petitioner is a Pharma company engaged in Research and Development and Commercial Manufacturters of High Tech - High Value - Low Volume Life Saving Cancer Drugs. During the course of their research activities, the petitioner company intended to set up its own injection facility to support Active Pharma Ingredients (API) to ensure 100% success of the project without dependence of others. In this context, the petitioner company approached the respondents banks for supporting the projects of the petitioner financially by lending loans to them by mortgaging the existing plant, plants to be set up, personal assets, besides giving guarantees. The respondents bank have also disbursed net cash to the tune of Rs.40 crores which was utilised by the petitioner for creating a world class facilities. However, for the reasons beyond the control of the petitioner, the petitioner suffered losses. In order to tide over the debt trap inter alia to garner support financially to his research and development activities, the petitioner approached the respondents bank to extend corporate debt restructuring as promulgated by the Reserve Bank of India. In repsonse, the respondents convened a meeting of joint lenders forum on 18.05.2016 to explore the opportunity of funding further to the petitioner company. The petitioner also submitted detailed report and also consented for sale of personal asset - a land measuring 3000 square feet as a condition precedent for considering his claim. While the petitioner was expecting a favourable response from the bank, the respondents did not respond, therefore, on 10.02.2017, the petitioner submitted a representation to the respondents and requested to consider his claim for corporate debt restructuring. As there was no response from the respondents, the petitioner is before this Court with this writ petition.

3. After some arguments by both sides it is clear that here is an Indian who is involved in research and development activities with an intention to obtain licence for marketing his innovative medicine for cancer. According to the learned Senior counsel for the petitioner, the petitioner is waiting for the approval of the United States Food and Drugs Administration (USFDA) authority for approval of his application for licence and once it is approved the petitioner's innovation would be of extraordinary value. However, for want of fund, the projects of the petitioner have been stalled. In such circumstances, the learned Senior counsel for the petitioner only seeks to issue a Mandamus to consider his representation for corporate debt restructuring as mandated by the Reserve Bank of India.

4. The learned counsel for the respondent would only contend that the respondent is not unwilling to extend financial assistance to the petitioner company however, at the same time, they are obliged to follow the guidelines issued by the Reserve Bank of India in this regard. In fact, a meeting was also convened in the presence of the petiitoner on 18.05.2016 to explore the possibility of rendering financial assistance to the petitioner and it is under consideration of the respondents.

5. Having regard to the above submission of the counsel for both sides, this Court can only direct the respondents to sympathetically consider the claim of the petitioner for corporate debt restructuring as mandated by the Reserve Bank of India as requested by the petitioner in their representations dated 04.02.2017 and 10.02.2017, taking into consideration that the petitioner is engaged in innovative research activity in developing a medicine to cure cancer so as to enable the petitioner to revive the industry. Such an exercise shall be completed by the respondents on merits and in accordance with law within a period of two weeks from the date of receipt of a copy of this order. With the above direction, the writ petition is disposed of. No costs.

-s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

To

National Bank for Agriculture and Rural Development (NABARD)
Tamil Nadu Regional Office,
No.48, Mahatma Gandhi Road,
Post Box No.6074, Nungambakkam,
Chennai 600 034.

+1 CC to Mr. S. Sathyanarayanan, sr 18018
+2 Ccs to Mrs. K. Sumathi, sr 18125

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