

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.974 of 2016

and

W.M.P.No.738 of 2016

G.Manimaran

S/o A.C.Govindasamy

Proprietor Sree Tamil Selvi Rice Mill

No.172, Kovai Road, Kangayam,

Tiruppur District.

... Petitioner

Vs.

1. The Under secretary,
Government of India,
Ministry of Food Processing iNdustry,
Panchsheel Bhawan, August Kranti Marg,
New Delhi - 110 049

2. The Assistant General Manager,
Canara Bank, Circle Office,
Coimbatore.

3. The Chief Manager,
Canara Bank, Regional Office,
Erode.

4. The Chief Manager,
Canara Bank, Vellakoil,
Tiruppur District.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents 2 to 4 to disburse the grant to the tune of Rs.25.69 lakhs together with interest to the petitioner or to adjust the same in the petitioner's loan account.

For Petitioner : Mr.C.Prakasam

For respondents : Mr.G.Baskaran,
Central Government Standing Counsel
for R1 to R3
Mr.R.Raghunathan
for M/s. T.S.Gopalan & Co. for R4

O R D E R

The petitioner seeks for a mandamus directing the respondents 2 to 4 to disburse the grant to the tune of Rs.25.69 lakhs together with interest to the petitioner, or to adjust the same in the petitioner's loan account.

2. The case of the petitioner is as follows:

He is running a modern rice mill. The Government of India announced the Scheme for modernization of Food Processing Industries by Upgrading Technology. As per the said Scheme, the 1st respondent would grant 25% of the sanctioned loan as subsidy towards such modernization. The petitioner availed loan amount of Rs.73 lakhs in the year 2007 from the 4th respondent and consequently, made an application on 24.11.2008 to the 1st respondent through the 4th respondent for disbursing the grant claim of Rs.25,69,000/-. The respondents did not disburse the grant amount inspite of the petitioner's repeated request. However, after lapse of 5 years, the 4th respondent informed the petitioner that his claim for grant is rejected by the Ministry on the ground that the application was received by them after the cut off date. The 4th respondent was careless and negligent in processing the petitioner's application within the stipulated time i.e., on or before 06.02.2009.

3. The 1st respondent filed a counter affidavit along with the typed set of papers. The respondents 2 to 4 also filed a separate counter affidavit. All the respondents disputed the claim of the petitioner.

4. Insofar as the first respondent is concerned, it is stated that the very application filed by the petitioner was beyond the cut off date, namely 06.02.2009 and therefore, the petitioner cannot get any benefit under the said Scheme. It is stated by the respondents 2 to 4 that the 1st application filed by the petitioner dated 24.11.2008 though was within the cut off date, the same was not in complete format by furnishing all the required particulars. On the other hand, the 2nd application filed by the petitioner on 12.03.2009 alone contained the required particulars, however, by that time, the last date for receipt of the application was already over,

namely on 06.02.2009. Therefore, it is contended by the respondents that the petitioner is not entitled to the relief as sought for in this writ petition.

5. Mr.C.Prakasam, learned counsel for the petitioner submitted that admittedly, the petitioner has made an application on 24.11.2008 and if the said application was not forwarded by the Bank to the first respondent, it is not the fault of the petitioner and therefore, he cannot be denied the benefit of subsidy. He further pointed out that at the time of introducing the Scheme, the last date for receipt of the application was not referred to therein and therefore, the 1st respondent cannot stick on to the cut off date, namely 06.02.2009.

6. Per contra, learned counsel for the respondents submitted that the application submitted by the petitioner on 24.11.2008 cannot be forwarded to the 1st respondent as the petitioner has not provided the required particulars, apart from the fact that the Bank has also to verify and get the other details by making field inspection. Learned counsel further submitted that in any event, admittedly, as the petitioner has made the 2nd application only on 12.03.2009, the same cannot be forwarded to the 1st respondent as the last date for receipt of the application was over by 06.02.2009 as per the communication issued by the 1st respondent in F.No.1-42/2005-PC dated 06.02.2009.

7. Heard both sides.

8. The petitioner seeks for the subsidy to the tune of Rs.25.69 lakhs, based on a Scheme introduced by the 1st respondent. It is nothing but a financial assistance given by the 1st respondent to the eligible persons based on the said Scheme introduced for a particular purpose. Therefore, it is evident that the petitioner cannot seek such benefit as a matter of right, unless he satisfies that he made an application in the proper format within the time as prescribed by the 1st respondent. A perusal of the communication dated 06.02.2009 issued by the 1st respondent would indicate as to the purpose of fixing the cut off date. For proper appreciation, the said communication is extracted hereunder.

To

All Focal Point Banks/FI's
(As per list attached)

Subject : Decentralization of Plan
Scheme of Technology Up-gradation/
Setting up/Modernization/ expansion
of Food Processing Industries-reg.

I am directed to this Ministry's letter of even number dated 20.04.2007 and subsequent instruction issued from time to time regarding the decentralized Scheme for technology Upgradation/ Establishment/ Modernization of food Processing Industries. However, since the cap has been exceeded, the restrictions regarding 15% ceiling has been re-imposed w.e.f. 24.10.2008 by the Ministry.

2. You are now requested not to accept any application with grain milling sector for consideration of grants-in-aid.

9. It is seen that the petitioner has made two applications, one on 24.11.2008 and another on 12.03.2009, out of which, the 2nd application given in proper format and material particulars was admittedly made after the cut off date. It is a fact that both these applications were not forwarded by the Bank to the first respondent on or before 06.02.2009. Assuming that it is the fault of the Bank in not forwarding the first application dated 24.11.2008, the first respondent cannot be faulted in not granting the aid when no application has been received by the first respondent within the cut off date. According to the Bank, the said application filed on 24.11.2008 was not in order. Therefore, it is a matter between the petitioner and the Bank, with which, the first respondent cannot be found fault with. As I pointed out already, the grant of subsidy is a beneficial Scheme, provided the applications are made within the cut off date as indicated in the communication dated 06.02.2009. In the absence of any valid application received by the 1st respondent within the said cut off date, I do not think that the petitioner can claim such subsidy as a matter of right. Therefore, I do not find any reason to appreciate the contention of the petitioner and issue mandamus as sought for in this writ petition. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते

Sd/-

Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

vsi

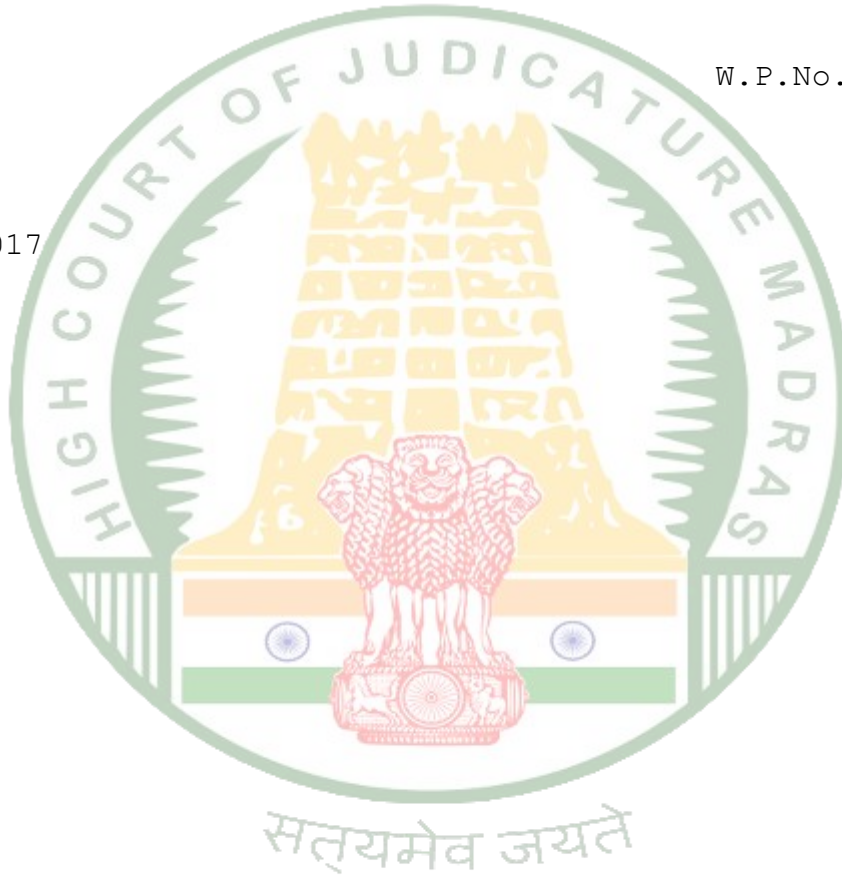
To

1. The Under secretary,
Government of India,
Ministry of Food Processing iNdustry,
Panchsheel Bhawan, August Kranti Marg,
New Delhi - 110 049

+1 cc to M/s.C.Prakasam Advocate sr 78799
+1 cc to M/s.T.S.Gopalan Advocate sr 78697
+1 cc to M/s.G.Baskaran Advocate sr 78494

W.P.No.974 of 2016

ariv
aa14/11/2017



WEB COPY