

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:16.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.10 of 2014

&

W.A.No.11 of 2014

and

M.P.Nos.1, 1 and 2, 2 of 2012

1. The Government of Tamil Nadu,
rep. by its Secretary to Government,
Small Industries Department,
Fort St.George, Chennai - 9.
2. The Industries Commissioner and
Director of Industries and Commerce Department,
No.36, South Canal Bank Road,
Chepauk, Chennai - 5.
3. The General Manager,
District Industries Centre,
Nagapattinam - 611 001. ... Appellants/Respondents
in both W.A's

Vs

1. S.K.Ramasamy
 2. The Tamilnadu Industries Investments
Corporation Ltd.,
Rep. by its Chairman, 691,
Anna Saalai,
Nandanam, Chennai - 600 035. ... Respondents/Petitioner
in W.A.No.10 of 2014
-
1. V.Shanmugam
 2. The Tamilnadu Industries Investments
Corporation Ltd.,
Rep. by its Chairman, 692,
Anna Saalai,
Nandanam, Chennai - 600 035. ... Respondents in
W.A.No.11 of 2014

Prayer in W.A.Nos.10 & 11 of 2014:- Writ Appeals filed under
Clause 15 of Letter Patent Act, to set aside the order dated
14.09.2010 passed in W.P.Nos.1444 of 2006 & 1445 of 2006.

WP.No.1444 & 1445/2006:Petition U/A 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the 3rd respondent relating to the proceedings dated 15.12.2005 and 30.11.2005 and made in letter No.TIIC/HO/projects-subsidy/2005-06 and quash the same as illegal and improper and further direct the respondents herein to pay a sum of RS. 12,04,502 and Rs.13,30,332/- respectively as subsidy as per G.O.Ms.No. 32 of small industries Department dated 28.6.2002.

For Appellants : Mr.V.Anandhamurthy
Additional Government Pleader
(in both Writ Appeals)
For Respondents : No Appearance
(in both Writ Appeals)

C O M M O N J U D G M E N T

(Order of this Court was made by K.K.SASIDHARAN, J.)

The first respondent in the respective intra Court appeals were carrying on aquaculture production of prawns in lands covered by survey numbers in the District of Nagapattinam. They were entitled to the Government Order in G.O.Ms.No.32, Small Industries (Dev.I) Department dated 28 June 2002 which was modified by the Government Order in G.O.Ms.No.43 Small Industries (Development) Department dated 31.07.2003.

2. The case of the first respondent in the respective Writ Petitions is that though the State Level Committee cleared the subsidy application on 2.9.2004, the matter was kept pending with the Tamil Nadu Industrial Investment Corporation Limited. The second respondent appears to have sanctioned the subsidy on 30.11.2005. By the time, another Government order in G.O.91 Small Industries (Dev.1) Department dated 07 october 2005 was passed fixing a ceiling on the subsidy at Rs.3,00,000/- The second respondent, therefore, sanctioned only a sum of Rs.3,00,000/- to the first respondent, which was based on the subsequent Government Order in G.O.91 Small Industries (Dev.1) Department dated 07 october 2005.

3. The first respondent challenged the order sanctioning the subsidy with a ceiling before this Court in W.P.Nos.1444 of 2006 and 1445 of 2006.

4. The learned Judge having found that the subsidy was cleared during the currency of the Government order dated 15.07.2004, allowed the Writ Petition. The learned single Judge opined that subsequent order in G.O.Ms.91 Small Industries Department dated 07 October 2005 would not govern the case of the respondent. Feeling aggrieved, the appellants

are before this Court.

5. We have heard the learned Additional Government Pleader appearing on behalf of the appellants. None appeared on behalf of the respondents in the respective appeals.

6. There is no dispute that the first respondent in the respective intra Court Appeals were entitled to the subsidy pursuant to the Government Order in G.O.Ms.No.32, Small Industries (Dev.I) Department dated 28 June 2002 and G.O.Ms.41, Small Industries (Dev.1) Department dated 15 July 2004. The State Level committee was expected to take a decision for sanctioning the subsidy. The second respondent was obliged to sanction the amount pursuant to the clearance given by the State Level Committee.

7. In the subject case, the State Level Committee cleared the case of the first respondent in the respective appeals on 02.09.2004. The matter was kept pending by the second respondent. In the meantime, G.O.Ms.91 Small Industries Department dated 07 October 2005, was issued by the Government. The second respondent thereafter, sanctioned the amount to the first respondent on 15.12.2005 taking into account the ceiling mentioned in the said Government Order. The fact that the matter was pending before the second respondent cannot be a reason to deny the benefits to the eligible entrepreneurs doing business in aquaculture. In case the impugned order passed by the second respondent is sustained, it would give premium to the default committed by the Corporation. The second respondent was expected to sanction the amount after giving clearance by the State level committee. It is not as if after clearance, the matter has to be considered afresh for sanctioning the amount. The Expert Committee having cleared the matter, the second respondent was bound to sanction the amount. This aspect was taken note of by the learned single Judge and the writ petition was rightly allowed. We do not find any reason to take a different view in the matter.

8. In the upshot, we dismiss this intra court appeals. No costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

To

1. The Tamilnadu Industries Investments Corporation Ltd.,
Rep. by its Chairman, 692, Anna Saalai,
Nandanam, Chennai - 600 035.

2. The Secretary to Government,
Small Industries Department,
Fort St.George, Chennai - 9.
3. The Industries Commissioner and
Director of Industries and Commerce Department,
No.36, South Canal Bank Road,
Chepauk, Chennai - 5.
4. The General Manager,
District Industries Centre,
Nagapattinam - 611 001.

+2cc to Mr.R.Murugabharathy, Advocate Sr.No.12443 & 12444
+1cc to Government Pleader Sr.No.12522

VGII(CO)
sm:14.3.2018

W.A.No.10 of 2014
&
W.A.No.11 of 2014