

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.5865 of 2008

M.Hamsa

... Petitioner

Versus

- 1.The Industries Commissioner &
Director of Industries and Commerce,
[NAMT Section], Chepauk,
Chennai - 600 005.
- 2.The Managing Director,
Tamil Nadu Industrial Investment Corporation Limited,
No.692, Anna Salai, Nandanam,
Chennai - 600 035.
- 3.The General Manager,
District Industrial Centre,
Near Rose Garden,
Udhagamandalam.
- 4.The Commissioner-cum-Block Development Officer,
Gudalor,
The Nilgris District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus, calling for records from the 3rd respondent relating to his order in Rc.No.1994/D/2007 dated 24-08-2007 quash the same and consequently direct the respondents to grant subsidy to the petitioner under the "New Anna Marumalarchi Thittam".

For Petitioner : Mr.E.Srinivasan

For R1, R3 & R4 : Mr.R.S.Selvam,
Government Advocate

For R2 : Mr.K.V.Sundarajan

O R D E R

The petitioner herein is a resident of Moochukunnu, Devala Gudalur. He has filed this writ petition for issuance of writ of Certiorarified Mandamus to call for the 3rd respondent records regarding the order in Rc.No.1994/D/2007 dated 24-08-2007 and to quash the same and further direct the respondents to grant subsidy to him under the "New Anna Marumalarchi Thittam".

2. It is the case of the petitioner that the Government introduced a new scheme namely "New Anna Marumalarchi Thittam" to promote and encourage Agro based small scale industries throughout the State in 385 Blocks. As per the said scheme, entrepreneurs will be given 20% subsidy, if they establish new industries. The petitioner had sent an application in the year, 2002, to avail the benefits of the said scheme for setting up a Mini Tea Factory at Nadugani Village, Gudalur block in Nilgiris District. The said application was scrutinized by the Assistant Engineer of Industries and the General Manager of District Industries Centre and after specifying the requirements they have forwarded the same to the Steering Group, District Level Committee. Thereafter, the District Level Committee has forwarded the said application to the State Level Coordination Committee. The State Level Coordination Committee had granted permission for setting up a Mini Tea Factory at Nadugani Village, Gudalur Block, under the said scheme.

3. The learned counsel for the petitioner has stated that according to the petitioner, anticipating subsidy to be given under the scheme, he had established a Mini Tea Factory at Nadugani Village, Gudalur Block, with a capital amount of Rs.40,00,000/- and production was also commenced in August 2007. Further, the learned counsel for the petitioner would contend that he is eligible to get 20% of the subsidy to the said factory under the "NAMT" scheme. Subsequently, he had sent an application on 08.08.2007 for availing the said subsidy. But, the above said application was rejected on the ground that the area in which the petitioner had set up a Mini Tea Factory is under the Municipal area, which is not covered under the "NAMT" scheme and it is only applicable for the industries started within the Development Block areas.

4. Afterwards, the petitioner had obtained a certificate from the fourth respondent viz., the Commissioner cum Block Development Officer, Gudalur, The Nilgiris District and based on the same, the petitioner had commenced the industry, which comes under the Block Area. The said Certificate was scrutinized by the Steering Group, District Level Committee and the State Level Committee and only after verifying the same, the fourth respondent accepted the application and granted permission.

Still the petitioner could not avail subsidy under the "NAMT" scheme, since he had also lost the opportunity to avail a loan from the Bank. If the respondents had informed the petitioner that the said area would not fall within the area covered under the subsidy scheme, he could not have entered into a contract or established the Tea factory in that area. Suddenly, the application of the petitioner was rejected by the respondents, on the ground that the locality, where the petitioner had established, the industry would not come under the subsidy scheme, which amounts to colourable exercise of power and therefore, the petitioner prayed for setting aside the impugned order.

5. The second respondent / the Tamilnadu Industrial Investment Corporation limited, filed a counter and submitted that the scheme was aimed to benefit 385 Blocks throughout the Tamilnadu with the capital of Rs.1 crore. This Corporation has appointed as a Nodal Agency for giving capital subsidy to the women workers subsidy and generator subsidy. Accordingly, the subsidy benefits were given to the eligible persons, whose capital investments in the plant and machinery subject to ceiling of 15 % and Rs.5 lakhs to the block areas and these units should be set up in the above areas block. Even though the Assistant Engineer (Industries) and General Manager, District Industries Centre under the "NAMT" scheme, However, the application was cleared by the District Level Committee on 28.12.2002, thereafter, the Block Development Officer, Gudalur has sent a letter dated 22.08.2007 to the General Manager, DIC / third respondent herein to clarify about the factory, which is running by the petitioner fall within the Devala Gudalur Village, which comes under Nadugani Town Panchayat. But the third respondent herein had clarified that the factory running by the petitioner, which comes under Nelliyalam Town Panchayat as on 18.07.2002. Hence, the petitioner is not eligible for subsidy under the "NAMT" scheme, since, the unit comes under Town Panchayat and it does not fall within the block area, as per the G.O.MS.No.32, Small Industries Department, dated 28.06.2002, in the year 2002 itself.

6. The District Level Committee had clarified that the petitioner's application was sent to the Industries Commissioner and Director of Industries and Commerce, Chennai vide letter Rc.No.5/NAMT-SLCC/2002, dated 14.11.2002 itself. Since the Assistant Engineer (Industries) and the General Manager, DIC had stated that the said area comes under the category of block area, the same was approved by the State Level Coordination Committee without conducting any inspection for "NAMT" scheme.

7. It could be seen from the report sent to the Proprietor, M/s. Nadugani Tea Factory, S.F.No.530/2B,D.No.6/V18, Ooty Road, Nadugani Gudalur, the Nilgiris District, by the General Manager, DIC, Udhagamandalam, the Nilgiris District, by letter RC.No.1994/D/2007, dated 24.08.2007, the relevant portion is extracted hereunder:

"As per the letter No.48 of 2003, dated 28.02.2003 of Executive Officer, Nelliyalam Town Panchayat, the unit naemly M/S.Ndugani Tea Factory, S.F.No.530/2B of Devala Village II, Nadugani was lyig in a tow Panchayat Area. Also as per the certificate of location dt.7.8.2007 issued by the Executive Officer, Nelliyalam III Grade Municipality, Pandalur, the Nilgiris, the unit now lies in a Municipal area. But, the unit has produced a certifcate No.Rc.A6/3938/2007 dt.14.08.2007 obtained from Block Development Officer, Gudalur that the unit is in Gudalur Block.

In this connection, the Block Development Officer, Gudalur was requested vide this office letter R.C.No.1994/D/07 dated 10.8.07 to confirm the exact location of the applicant unit in Gudalur Block. The Block Development Officer, Gudalur vide letter R.C.A6/3639/2007 dated 22.08.2007, has certified that the unit's location was in nelliyalam Town Panchayat as on 18.07.02 (ie) the date of unit's application filed at District Industries Centre, under "NAMT" and the unit's present locaton comes under Nelliyalam Municipality. In addition, the Gudalur Block Development Officer has cancelled the above location certificate dt.14.08.2007.

Thus, it is now confirmed that the unit's location did not fall under Gudalur Block Jurisdiction right from the inception of the project. NAMT subsidies are elgible for the units established in Development Block Areas only.

Hence, the unit's above applications could not be considered fro grant of L.T.P.T Subsidy under NAMT.

Therefore, the unit's applications are rejected and retained in this office."

8. By relying upon the G.O.Ms.No. 32, Small Industries (Dev.I) Department, dated 28.06.2002, it is only for permitting to promote the industrial investment, employment and output in the rural areas in the small scale sector and the Tamilnadu Industrial Investment Corporation Limited will be the principal financing agency. Nationalised Banks and Cooperative Banks will also take part in this scheme as feasible. It is only for Agro based industries including processing of Horticulture Produce, flower based extracts, Coir and Food processing will be eligible as per the G.O.Ms.No.37 Small Industries, dated 20.07.2000, which was converge efforts to all the departments at the District level, Government constitute a District level Committee under the chairmanship of the District Collector with the General Manager, District Industries Centre as the Nodal Officer. The Project Officer, District Rural Development Agency (DRDA), Joint Director, Agriculture, Deputy Director, Horticulture and the Regional Manager, Tamil Nadu Industrial Investment Corporation (TIIC) will be the members of the Committee. The terms of the committee is as follows:

"a) take all necessary measures to implement the programme.

b) to identify a shelf of projects that could be promoted in each block of the respective districts.

c) provide escort support to the entrepreneurs in the preparation of project report, market survey and access to funding; and

d) organise for contract farming, wherever possible, linking up the Waste Land Development Programme.

e) The District Committee shall, promote feasible projects for implementation identified by the Centre for Agricultural and Rural Development Studies (CARDS) of Tamil Nadu Agricultural University for various districts, NABARD, District Industries Centres, District Level Small Industries Associations, State Level Small Industries Associations and the Small Industries Service Institute of the Government of India and also the Local Bodies."

9. As per the terms, the petitioner's claim has to be decided only by the Government. As per the scheme, 385 blocks have been brought within the purview of the scheme throughout the State. Since the petitioner's unit falls under the municipality and which was originally Town Panchayat in Nelliyalam Town Panchayat area, the said unit would not be eligible for getting subsidy under the said scheme "NAMT".

Hence, this Court is not inclined to interfere with the order passed by the third respondent. Accordingly, this Writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

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[NAMT Section], Chepauk,
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