IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5609 of 2015

==

1. M/s Ram Chandra Prasad Power Loom Udyog, Mohalla Moghul Kuan, P.O. & P.S.-Soh Sarai, District-Nalanda, through its Proprietor being the heirs of late Ram Chandra Prasad.
2. Kalawati Devi Wife of Late Ram Chandra Prasad
3. Suresh Prasad
4. Uday Prasad alias Uday Kumar
5. Vinay Prasad alias Vinay Kumar
6. Sanjay Prasad alias Sanjay Kumar
7. Sunil Prasad alias Sunil Kumar
   All Sons of Late Ram Chandra Prasad
   Petitioner Nos. 3 to 7 all resident of Mohalla Moghal Kuan, Bauli Par, P.S. Soh Sarai, District Nalanda.

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The Industrial Development Commissioner, Government of Bihar, Patna.
3. The Joint Secretary, Industries Department, Government of Bihar, Patna.
4. The District Magistrate, Nalanda, Bihar Sharif
5. The Nideshak Basar-Sah-Up Sachiv, Sansthik Vitya Avam Karyakram Kriyanvayan Bibhag, Patna
6. The Director, Hast Kargha Avam Resham, Bihar, Patna
7. The Chief Executive Officer, Bihar Sharif, Chhetriya Hast Kargha Bunkar Sahyog Sangh Ltd. Nalanda.
8. The General Manager, District Industries Centre, Nalanda
9. The Branch Manager, Central Bank of India, Bihar Sharif.
10. The Regional Manager, Central Bank of India, Station Road, Gaya.

... ... Respondent/s

==

Appearance :

For the Petitioner/s :	Mr. Lala Sachindra Kumar, Adv.
	Mr.Ashok Kumar Sinha No.-2, Adv.
For the State :	Mr. Mujtabaul Haque, GP-12
	Mr. Mritunjay Kumar, AC to GP-12
For the Bank :	Mr. Ajay Kumar Sinha, Adv.
For the Respondent no.7 :	Mr. Sanjay Kumar, Adv.

==

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL ORDER

7 09-04-2019 Heard learned counsel for the parties.

This writ application has been preferred for issuance of a direction to the respondent no.5 to release the funds in favour of the Central Bank of India, Biharsharif towards payment of the loan of the petitioner which he availed on account of Cash Credit facility obtained from the Bank. The petitioner has also challenged the letter no.1462 dated 04.06.2008 as contained in Annexure-10 to the writ application as well as letter no.888 dated 04.04.2008 as contained in Annexure-11 to the writ application which were issued by the respondent nos.5 and 6 respectively. By Annexure-10 to the writ application, the Department of Finance, Government of Bihar has informed the Deputy Secretary, Department of Industry about the demand raised by the applicant Sri Ram Chandra Prasad citing the scheme under which there is a provision to waive the loan obtained by the weavers who were manufacturing clothes in their own Handlooms.

By yet another letter as contained in Annexure-11 to the writ application, the Department of Handloom has written to the Department of Industry with respect to the steps taken towards implementation of the scheme wherein a sum of Rs.12.24 crores has been sanctioned for payment of loan of some of the weavers who were engaged in manufacturing of clothes by operating their Handlooms.

In course of argument, learned counsel for the petitioners submits that the petitioners had opened a cash credit account with the Central Bank of India for running a Powerloom. It is stated that such cash credit facility was obtained in the year 1986-87 for a limit of Rs.5 lacs and odd. It is further informed that till the year 2006-07 the loan account of the petitioner had accumulated a sum of Rs.4,48,812/- which the bank enforced by taking steps in accordance with law. It is submitted that initially the request of the petitioner for grant of benefits of the scheme floated by the State government was not given by saying that the scheme is not applicable in the case of the Powerloom weavers but subsequently the Government had extended the benefit up to Rs.5 lacs even to the Powerloom weavers which should have been made available to the petitioners.

Learned counsel further submits that even though the petitioners have paid the entire outstanding amount to the bank to avoid proceeding under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 which was undertaken against the petitioners, the State government is still liable to provide the benefit of the scheme and thereby paid the amount of Rs.5 lacs to the petitioners.

On the other hand, learned counsel representing the

State has drawn the attention of this Court towards the statements made in paragraph 16 and 17 of the counter affidavit filed on behalf of respondent nos.2, 3 and 6. It is stated that the petitioners' unit was a registered commercial unit and it was a commercial borrower who had obtained cash credit facility from the bank. It is submitted that the loan waiver scheme did not apply to the petitioners inasmuch as the scheme was to be implemented for those who were poor Powerloom operators and used to manufacture clothes on their own Powerlooms but commercial borrowers were specifically excluded from the purview of the scheme which would be evident from Clause (d) of the amendment dated 04.12.2014. Attention of this Court has been drawn towards relevant Clause (d) present in the letter no.4411 dated 04.12.2014 as contained in Annexure-B series to the counter affidavit. It is thus submitted that the petitioners could not have been brought within the purview of the scheme even if the scheme would have been in force by this time. It is submitted that the scheme has now been closed and in the present circumstance when the petitioners have already paid the entire dues to the bank, the reliefs prayed for in the writ application has virtually become infructuous.

A counter affidavit has also been filed on behalf of the respondent nos.4 and 7. A specific stand has been taken therein that the loan waiver scheme was earlier restricted only to the weavers under the handloom sector and not for Power Looms and hence demand of the petitioners is not covered under the provisions of the scheme.

Having heard learned counsel for the parties and on perusal of the records, this Court finds that the assertions made in the counter affidavit filed on behalf of the respondents have not been controverted by the petitioners by filing any rejoinder. It is the specific case of the respondents that scheme in question did not cover the petitioners who had in fact obtained the cash credit facility from the bank as a commercial borrower. It is also apparent that Clause (d) of the amendment letter dated 04.12.2014 specifically mentions that the benefit under the scheme will be to only those weavers who are engaged in manufacturing of clothes through their own Powerlooms and this benefit would not be provided to those who have obtained commercial loan.

In the aforesaid facts and circumstances where there is no denial of the fact that the petitioners were the commercial borrower who were not covered under the scheme of the government, this Court finds no reason to direct the respondent authorities to consider the case of the petitioners for grant of benefits under the scheme which has already come to a close and the petitioner has paid all the outstanding of the bank.

The writ application has, thus, no merit. It is dismissed.

(Rajeev Ranjan Prasad, J)

arvind/-

U			