

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.17309 of 2013

and

MP No.1 of 2013

and

WMP No.3065 of 2016

A. Vasanthkumar

....

Petitioner

Vs

The Executive Director,
Tea Board of India,
Shell Wood,
Coonoor.

....

Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the respondent proceedings made in Letter No.6 (343) /TMCO/CNR/2011/1645, dated 20/21.06.2012 to quash the same and consequently direct the respondent to forthwith release the subsidy as claimed by the petitioner under the quality upgradation and product diversification scheme QUPDS as per Sanction order vide Proceedings No.19(A)/700/QUPDS/X1/CNR/2009/2432, dated 18.03.2010. - (Prayer amended vide order dated 05.09.2019 made in CMP No.3064 of 2016.)

For petitioner : Mr.L.Chandrakumar

For respondent : Mr.D. Muthukumar
for M/s.Paul and Paul

ORDER

This Writ Petition has been filed seeking to quash the proceedings made in Letter No.6 (343) /TMCO/CNR/2011/1645, dated 20/21.06.2012 and consequently direct the respondent to forthwith release the subsidy as claimed by the petitioner

under the Quality upgradation and product diversification scheme (QUPDS) as per Sanction order vide Proceedings No.19(A)/700/ QUPDS /X1/CNR/2009/2432, dated 4/8.03.2010.

2. It is the case of the petitioner that he is a Licensee with the respondent for manufacturing Tea. According to him, he applied for subsidy under the Quality Upgradation and Product Diversification Scheme as ("QUPDS") introduced by the respondent. As per the said scheme, the petitioner is entitled for subsidy for purchase of Tea Machinery. It is the case of the petitioner that he submitted the application on 11.02.2010 with the respondent for subsidy to a tune of about Rs.3,68,680/- and he has complied with all the conditions imposed by the respondent for the grant of the said subsidy. It is the case of the petitioner that despite complying with the conditions imposed by the respondent for grant of the subsidy, the respondent failed to grant the subsidy. Under such circumstances, this writ petition has been filed.

3. However, the respondents have filed counter stating that the petitioner is not entitled for subsidy, since he has violated the conditions imposed for grant of subsidy. According to them on inspection, it was found that

(a) the petitioner has not been using good quality of green leaves while manufacturing Tea;

(b) the hygiene of the Factory of the petitioner is very bad and Tea sample drawn from the Teas of the Factory had failed to meet the PFA standards;

(c) On inspection, it was found that the green leaf (raw material) standard was very poor, the hygiene of the factory especially in manufacturing line was very poor, the Factory was selling Teas mainly through private sales. Despite several reminders, the petitioner failed to rectify the deficiencies pointed out by the respondent.

(d) The Teas processed by the petitioner did not confirm to the Standards prescribed under the Food Safety and Standards Act 2006.

(e) the petitioner / Management did not co-operate with the respondent and the records sought for by the respondent were not presented to the respondent Officials for verification. Thus, the petitioner has indulged in adulteration of Tea or facilitating the Adulteration.

4. Therefore, in view of the breach of conditions committed by the petitioner, according to the respondent, the petitioner is not entitled for subsidy.

5. Heard Mr.L.Chandrakumar, learned counsel for the petitioner and Mr.D.Muthukumar, learned counsel for the respondent.

6. The learned counsel for the petitioner drew the attention of this Court to the application submitted by the petitioner for seeking subsidy as well as the acceptance letter of the respondent. According to the learned counsel for the petitioner, the petitioner has complied with all the conditions imposed by the respondent under the letter dated 04.03.2010. According to him, since the petitioner has complied with all the conditions mentioned in the letter, dated 04.03.2010 of the respondent, the petitioner is entitled for subsidy. He also drew the attention of this Court to the Proceedings of the respondent dated 23.11.2012 wherein according to him, the respondent has dropped all action in respect of the deficiencies / defects found by them during their inspection at the petitioner's Factory.

7. Per contra, the learned counsel for the respondent would submit the petitioner has failed to comply with the conditions imposed under the letter dated 04.03.2010 of the respondent, wherein to get subsidy, the petitioner will have to satisfy all the conditions mentioned therein.

8. He drew the attention of this Court to the various inspections carried out by the respondent in the petitioner's Factory and also to the various communications sent to the petitioner after those inspections. In particular, he referred to the inspection report dated 29.04.2011, wherein the Inspectors have observed on inspection that "the hygiene of the petitioner's Factory is very bad and the Factory once failed in PFA Test of sample of making Tea drawn by Tea Board". The said inspection report was also sent to the petitioner by the respondent on 11.07.2011. In the letter dated 11.07.2011, the respondent has requested the petitioner to rectify the defects in manufacturing process and maintain hygienic condition in the entire factory. They have cautioned the petitioner that if the same is not done within the stipulated period of time, the petitioner's application for subsidy under QUPDAS scheme will be rejected. One more opportunity was given by the respondent to the petitioner on 26.07.2011 and a reminder was also sent on 08.05.2012 by the respondent. In the said reminder letter, the

respondent has requested the petitioner to keep the records pertaining to the year 2011-2012 ready for inspection. Further, as seen from the letter dated 22.05.2012 of the respondent, the petitioner has not kept ready the documents mentioned in the letter dated 08.05.2012. Thereafter, a show cause notice was also issued by the respondent to the petitioner on 01.06.2012 listing out the various defects / deficiencies in the petitioner's Factory and the list included are as under :

a. Wilful abstention from inspection and non-production of business documents to Tea Board;

b. Functioning in a non-transparent manner keeping documents out of reach for inspection;

c. Habitual Non-compliance and Belligerent responses to Board's directives / Advices

d. Abetting to adulteration / coloring of teas through its sister concerns and indulging in unfair trade practices damaging the consumer health and tea trade as a whole

e. Manipulations in fixing of Green leaf price

f. Submission of Form E with incomplete Details:

g. Selling of teas to Unregistered tea buyers

h. Unhygienic and Improperly Maintained Factory

9. As seen from the records available before this Court, the petitioner has not responded to all the aforesaid reminders sent by the respondent and has also not responded to the show cause notice dated 01.06.2012. Only after giving sufficient opportunity to the petitioner to rectify the defects / deficiencies, the respondent has passed the impugned order by its proceedings dated 20.06.2012 not to process the claim for subsidy made by the petitioner.

10. For the foregoing reasons, this Court is of the considered view that the petitioner has not complied with the conditions required for grant of subsidy and despite several opportunities granted by the respondent to rectify the defects / deficiencies found by their inspectors, the petitioner has not chosen to comply with those requirements.

11. In the result there is no merit in this writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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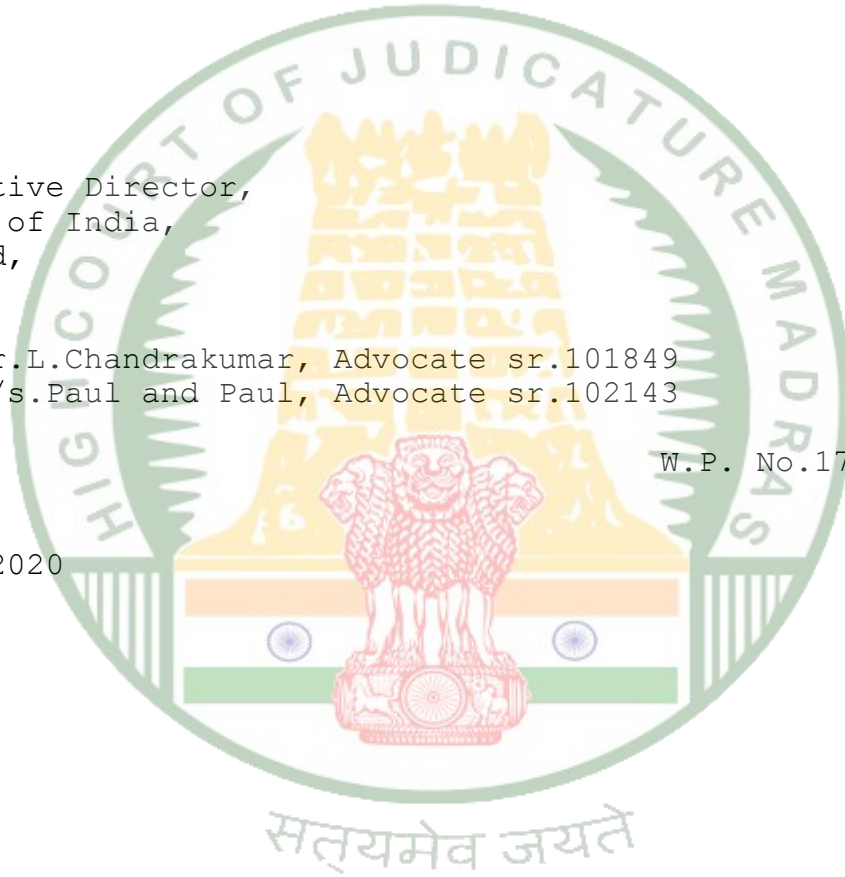
To

The Executive Director,
Tea Board of India,
Shell Wood,
Coonoor.

+1cc to Mr.L.Chandrakumar, Advocate sr.101849
+1cc to M/s.Paul and Paul, Advocate sr.102143

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nr 30/01/2020



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