

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.29549 and 29550 of 2005

And

W.P.M.P.Nos.32378 and 32379 of 2005

L.M.S.Gani Mohamed & Co
represented by its
Managing Partner Mr.G.M.Shaik

... Petitioner in both W.Ps.

Vs.

1.District Industries Centre
represented by its General Manager,
Vellore,
Vellore District.

2.The Tahsildar
Taluk Office, Walajapet,
Vellore District.

3.The Collector of Vellore District,
Sathucachari,
Vellore - 9.

... Respondents in both W.Ps.

Prayer in W.P.No.29549 of 2005:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 1st respondent dated 12.08.2005 in RC.11258/A4/96 and quash the same and consequentially direct the first respondent to furnish the details sought for by the petitioner in its communication dated 31.03.2005.

Prayer in W.P.No.29550 of 2005:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent in RC.11258/A1/1996 dated 04.02.2002 and quash the same.

For Petitioners : Mr.N.Balaji
in both WPs for M/s.McGan Law Firm

For Respondents: Mrs.K.Bhuvaneswari for R1 to R3
in both Wps Additional Government Pleader

C O M M O N O R D E R

The case of the petitioner is the petitioner is a partnership firm having its factory at 45-B and 49, SIPCOT Industrial Complex, Ranipet in Vellore District and is engaged in the manufacturing activity of tanning hides and skins. The petitioner was granted 20% special capital subsidy vide proceedings of the first respondent dated 07.09.1995 amounting to a sum of Rs.3,67,562/- after conducting field inspection. However, without any notice, the petitioner was directed to remit back the subsidy amount, against which, the present writ petitions have been filed.

2.The learned counsel appearing for the petitioner would submit that the petitioner purchased the land and constructed the building and thereafter fitted the machineries and thereafter applied for subsidy, which was assured by the first respondent. Thereafter, the Officials visited the land, building and machineries and granted subsidy amounting to a sum of Rs.3,67,562/-, vide proceedings of the first respondent dated 07.09.1995. However, without any notice, the impugned orders came to be passed.

3.This Court also heard the submissions made by the learned Additional Government Pleader appearing for the respondents and also perused the entire materials available on record.

4.The issue involved in the present case is whether the respondents have followed the principles of natural justice before issuing the impugned orders.

5.The respondents have filed a counter affidavit. In the counter affidavit it is stated that the assets claimed for subsidy for III Expansion by the unit were disallowed by the audit on the grounds that these assets were purchased before the date of commencement of II expansion itself and that the purchases have already been made when the unit had claimed subsidy under Expansion I and II. Thereafter, the Authority directed the petitioner to remit the subsidy amount.

6.However, perusal of the counter affidavit did not reveal anything with regard to the opportunity given to the petitioner

before passing the impugned orders. Hence, the respondents have not followed the minimum principles of natural justice and without hearing the petitioner, they passed the impugned orders which is un-sustainable one.

7.Hence, the writ petitions are allowed. However, liberty is granted to the respondents to pass fresh orders, after giving opportunity to the petitioner and after following the principles of natural justice. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

- 1.The General Manager,
District Industries Centre,
Vellore,
Vellore District.
- 2.The Tahsildar
Taluk Office, Walajapet,
Vellore District.
- 3.The Collector of Vellore District,
Sathucachari,
Vellore - 9.

+1cc to M/s.Megan Law firm, Advocate Sr.55027
+1cc to the Government Pleader Sr.55420

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srg 25/07/2019