IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 7327 of 2020

With
R/SPECIAL CIVIL APPLICATION NO. 7398 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 7421 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 7452 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 7560 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 7647 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 7646 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 7648 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 8665 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 8676 of 2020
With
R/SPECIAL CIVIL APPLICATION NO. 9265 of 2020

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SHREEJI PSYLLIUM INDUSTRIES
Versus
STATE OF GUJARAT

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Appearance:
MS MEGHA JANI(1028) for the Petitioner(s) No. 1
DS AFF.NOT FILED (N)(11) for the Respondent(s) No. 3
MR ISHAN JOSHI, ASST GOVERNMENT PLEADER(1) for the Respondent(s) No. 1
MR KAMAL B. TRIVEDI, SENIOR ADVOCATE WITH MR ANUJ K TRIVEDI(6251) for the Respondent(s) No. 2

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CORAM: **HONOURABLE MR. JUSTICE BIRENVAISHNAV**

Date : 23/12/2020

ORAL ORDER

ORDER IN SCA/7327/2020, SCA/7398/2020, SCA/7452/2020, SCA/7560/2020, SCA/7646/2020, SCA/7647/2020, SCA/7648/2020, SCA/8665/2020, SCA/8676/2020, SCA/9265/2020

1. The present petitions are preferred under Article 226 of the Constitution of India, 1950, assailing the action of the Gujarat Agro Industries Corporation Ltd.-Respondent No.2, in not granting benefits under the Comprehensive Agro Business Policy (2016-21) to the Petitioners.

2. The central facts giving rise to these group of petitions are as under:

2.1 The Comprehensive Agro Business Policy, 2016-21 (**"CABP 2016-21"**), is a scheme floated by the Government of Gujarat, Department of Agriculture, vide its resolution dated 07.05.2016, with a view to provide financial assistance to Agro Industrial Units and Infrastructure Projects and further to facilitate investment in the Agro and Food Processing sector for value addition to farm produce and thereby, promote Agro and Food Processing Industry in Gujarat. The Respondent No. 2 is the nodal agency appointed for the implementation of the same.

2.2 The said scheme envisages to provide subsidies under various schemes, by means of, subsidy on capital investment, back ended interest subsidy on term loan, financial assistance for freight subsidy, Financial Assistance for sea freight subsidy and other heads under the CABP, on comprehensive conditions and procedure for availing the same. The scheme is governed by a detailed operating guideline laid down by the Respondent No. 2.

2.3 The present dispute is regarding the condition No. 2.5(b) of the Scheme, which is as follows:

"2.5(b) The enterprise that has availed assistance under this scheme will not be entitled to avail benefits under any other similar scheme of State Government, unless and otherwise specified under the particular scheme."

2.4 In furtherance to the said condition, the operating guidelines for the said scheme, vide clause 2.1.4.12 stipulates that, an applicant seeking financial assistance under the said scheme is required to submit, inter alia, an affidavit as per the format prescribed at Annexure-XV of the operating guidelines. For ready reference, para (b) of the prescribed affidavit is set out hereunder:

"(b) Organization has not obtained / applied for or will not obtain any grant/subsidy from any Ministry/Department/Organization/Agencies of State Govt. For the same purpose/activity/same components."

2.5 The State of Gujarat, through Industries and Mines Department introduced another scheme being New Industrial Policy ,2015 (hereinafter referred to as the **"NIP, 2015"**), vide its resolution dated 19.01.2015. The said scheme was introduced with a view to enhance the development of MSME's and thereby, increase the share of manufacturing in the state GDP, the said scheme provided financial assistance on various subjects and parameters, including financial assistance by way of Capital Investment Subsidy and Interest Subsidy. The agency overlooking the implementation of the said scheme are the respective District Industries Centre for each district i.e., the Respondent No. 3.

2.6Condition no. 3.3(b) of NIP, 2015, is as follows:

"3.3(b) The enterprise that has availed assistance under this scheme will not be entitled to avail benefits under any other similar scheme of the State Government, unless and otherwise specified under particular scheme."

2.7 The said scheme also stipulates a provisional sanction to be granted to the applicants after inspection of the documents submitted by them and thereafter, the sanctioned amounts are disbursed.

2.8 From the bare perusal of both the schemes i.e., the CABP, 2016-21 and the NIP, 2015, it is evident that, both these schemes are overlapping, to the extent that, the applicant under both the schemes can seek financial assistance by way of Capital Investment Subsidy and Interest Subsidy.

3. Admittedly, the Petitioners have applied under both the abovementioned schemes for availing financial assistance. Under the NIP, 2015, admittedly, the Petitioners have already been granted the provisional sanction.

4. The Petitioners, can be broadly categorised into two categories i.e., Petitioners, whose applications under the CABP, 2016-21 have been rejected by the Respondent No.2, on the premise that they have applied under the NIP, 2015, and were granted provisional sanction and therefore, are seeking to claim benefits under the both the scheme. The other set of Petitioners are challenging the inaction on the part of the Respondent No.2, whereby their application under the CABP 2016-21 is pending and have preferred the present petitions on the apprehension that their applications would also be rejected as they have also obtained the provisional sanction under the NIP, 2015.

5. It is in these circumstances, that the Petitioners have approached this Court, assailing the inaction/rejection by the Respondent No.2 on the ground that the same is illegal, unreasonable and contrary to the conditions of both the schemes.

6. Ms. Megha Jani, learned advocate for the Petitioners, has submitted that there is no bar against applying under two schemes and that the only bar is that the Petitioners are not permitted to obtain benefits under both the schemes, i.e. obtain dual benefits.

7. As against the above, Mr. Kamal Trivedi, Learned Senior Advocate with learned advocate Mr. Anuj Trivedi appearing for the Respondent No.2 has submitted that all the Petitioners have applied under NIP, 2015, and have already been granted the provisional sanction. Therefore, the Petitioners are already eligible to be granted the subsidy/benefits under the NIP, 2015, and hence, their applications under the CABP, 2016-21, could no longer be processed, as admittedly, an applicant is not permitted to obtain similar benefits under more than one scheme.

8. Having considered the respective submissions of the Learned Counsels appearing for the Petitioners and the Respondents respectively, it is evident that both the CABP 2016-21, as well as, NIP, 2015, schemes, mandate that an applicant is not permitted to obtain benefit under more than one scheme. The purpose behind imposition of the Condition No.2.5(b) in CABP 2016-21 is clear, which is to ensure that no applicant avails of benefits/subsidy under more than one scheme and thereby, does not derive dual benefit to the detriment of the public exchequer.

9. It is not in dispute that the Petitioners have already been granted a provisional sanction pursuant to their application under NIP, 2015. Hence, the Respondent No.2 apprehends that the Petitioners would receive dual benefits/subsidy. However, it also not in dispute that the Petitioners have not yet availed of any benefits under either scheme.

10. In the said background, it would suffice to dispose of the present petitions with the following directions:

(i) The Petitioners are directed to tender an Affidavit before this Hon'ble Court, as well as, the Respondent Nos. 2 & 3, undertaking that they shall not avail of the benefits/subsidy under more than one scheme.

(ii) Pursuant to tendering the said affidavits, the Respondent No.2 shall consider the applications of the Petitioners under the CABP 2016-21 Scheme as per their eligibility criteria and subject to the scrutiny as per the CABP 2016-21 Scheme, policy and guidelines.

(iii) Subsequent to the scrutiny and verification of the application of the Petitioners and upon the Petitioners satisfying the eligibility criteria for availing benefits/subsidy under the CABP 2016-21 Scheme, the Respondent No.2 shall intimate the same to the Petitioners. Upon receiving the said intimation, the Petitioners shall withdraw their applications under the NIP 2015 Scheme and inform the Respondent No.2 of the same.

(iv) Only upon the verification and confirmation of withdrawal of the Petitioners from the NIP 2015 Scheme, the Respondent No.2 would disburse the benefits/subsidy to the Petitioners under the

CABP 2016-21 Scheme, as per the CABP 2016-21 scheme, policy and guidelines and subject to the availability of funds from the State Government, within one month from the date of confirmation of the withdrawal of the Petitioner from the NIP 2015 Scheme.

11. With the above directions, the present petitions are disposed off. It is clarified that the respondent no. 2 shall dispose of the application of the petitioner expeditiously. Notice is discharged. No order as to costs.

ORDER IN SCA NO. 7421 OF 2020

Stand over to 19.01.2021.

(BIREN VAISHNAV, J)

DIVYA / JYOTI V. JANI