

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.29578 of 2017
Date of Decision:06.03.2020

Bhupinder Singh

.....Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. C.S.Bagri, Advocate
for the petitioner.

Mr. Sandeep Vermani, Addl.AG., Punjab
for respondents no.1 to 3.

Mr. Ashish Rawal, Advocate
for respondent no.4.

LISA GILL, J(Oral).

Petitioner seeks a direction to the respondents to release the remaining amount of subsidy along with interest for the approved 'Fan and Pad Polly House', installed by the petitioner on one acre as per the standards and guidelines of the policy under the 'Mission for Integrated Development of Horticulture' (for short 'MIDH').

It is not in dispute that in order to provide an impetus for development of horticulture, various subsidies were made available for the farmers under the 'MIDH' or the National/State Horticulture Mission. The MIDH is a centrally sponsored scheme for the holistic growth of horticulture sector covering fruits, vegetables, root and tuber crops, mushrooms, spices,

flowers, aromatic plants, coconut, cashew, cocoa and bamboo. The MIDH scheme is implemented as per the operational guidelines, which are attached as Annexure R-4/2 with the reply filed on behalf of respondent no.4-Ministry of Agriculture and Farmers Welfare, Govt. of India. The funding pattern of 60:40 is followed. There are six sub schemes under the MIDH and the National Horticulture Mission (NHM) is one of the said six sub schemes. There is a provision for promoting cultivation of the crops under a green house, shed net house etc., by providing financial assistance/subsidy at the rate of 50% of the cost. The material/technologies are required to conform to BIS Standards. The Central Government monitors the implementation of the scheme on the basis of the physical/financial progress submitted by the States and Union Territories. Responsibility of choosing the agency/contractor for execution of the work and quality control/ verification is the decision of the beneficiary or the State Government or the Union Territory, concerned. The funds under the scheme are allocated and released to the State Government and Union Territories on the basis of Annual Action Plan (APP), received from the State Level Executive Committee (SLEC), headed by the Agricultural Production Commissioner or Principal Secretary Horticulture/ Agriculture/ Environment and Forests of the respective State.

The petitioner, set up the 'Fan and Pad Poly House' and sought subsidy at the rate of 50% in terms of the said policy. As per the advertisement (Annexure P-1), the State of Punjab, proclaimed that it was going to empanel firms for the structures of poly house, shed net house, poly net house in the near future and that farmers whose structures were under construction were asked to provide information to the concerned District Officer on or before 19.05.2016 and for claiming subsidy, completed cases

were required to be send till 16.05.2016 (Annexure P-2). The petitioner's case was recommended for subsidy at the rate of 50% i.e. for a sum of ₹28,00,000/-, the total cost of the project being ₹57,00,000/-. This is so reflected in the recommendation of the Chairman, National Horticulture Mission, Fatehgarh Sahib, Annexure P-2. However, it is only a sum of ₹16,88,000/-, which was released on 13.10.2016. Petitioner agitated for release of the complete amount of subsidy. Legal notice dated 07.07.2017 (Annexure P-6), was served upon the respondents.

Legal notice was replied to, by the Director Horticulture-cum-Mission Director, SHM, Punjab, repudiating the petitioner's claim on 26.07.2017 (Annexure P-7).

Aggrieved therefrom, this writ petition has been filed by the petitioner, while staking claim to the subsidy at the rate of 50% in terms of the existing scheme. The petitioner, also claims parity with one Mukhbain Singh Gill son of Hoshiar Singh, to whom, it is stated that the subsidy amount at the rate of 50% of the total cost, was released.

Respondents no.1 to 3, in their reply, by way of affidavit dated 06.07.2018, of Sh. Rajinder Singh, Assistant Director, Horticulture, Aam Khas Bagh, Sirhind, District Fatehgarh Sahib, claimed that the petitioner was entitled only to a sum of ₹16,88,000/- and that he himself had relinquished his claim towards subsidy for the Fan and Pad Poly House. It is further stated in the said reply that due to reduction of budget by the Central Government, the petitioner was not eligible for seeking the subsidy. It is however, admitted that respondent no.3, had recommended subsidy to the petitioner at the rate of 50% (i.e., of ₹28,00,000/-), but the same was returned by respondent no.2 on 03.06.2016 (Annexure P-8), stating that the Central Government had reduced budget of Annual Action Plan, for the year

2016-17. The petitioner, had thereafter, purportedly relinquished his claim as per Annexure R-1/T, which is concededly a receipt dated 13.10.2016, by the petitioner agreeing to release of normal green house subsidy. It is relevant to note that the amount of ₹16,88,000/- was released to the petitioner on 13.10.2016.

It is pertinent to note, at this stage, that respondent no.4, in its reply dated 12.02.2019, has specifically denied that there was any reduction in the Annual Action Plan or a reduction in the amount of subsidy of any particular person or unit set up under the National Horticulture Mission due to reduction of the budget. It is specifically mentioned that the Central Government, has no role to play insofar as the approval and release of funds to the beneficiaries, is concerned.

Pursuant to the said reply being filed on behalf of respondent no.4-UOI, learned counsel for the State was directed to seek complete instructions and apprise the Court of the basis for issuance of memo dated 03.06.2016 (Annexure P-8). Consequent thereto, an additional affidavit dated 20.05.2019, was filed by the Assistant Director Horticulture, Fategarh Sahib and it is stated that the remaining amount of ₹11,12,000/-, would be released to the petitioner on the basis of an inspection report of the District Head, on 15.06.2016 (Annexure R-7). Perusal of the said inspection report, reveals that it was only on the basis of presumption that letter dated 03.06.2016 (Annexure P-8), was issued and the petitioner thus denied the complete amount of subsidy to which he was entitled.

It is brought to my notice that the remaining amount of subsidy due to the petitioner, has since been released to the petitioner on 05.03.2020.

Be that as it may, the petitioner is indeed entitled to interest on the delayed payment, at-least from the date of the legal notice 26.09.2017

(Annexure P-6), served by him on the respondents, till the release of the amount on 05.03.2020.

I do not find any merit in the argument raised by learned counsel for the respondent-State, that the petitioner had himself relinquished his right to the entire amount of subsidy on the basis of the so called receipt (Annexure R1/T). Apart from the fact that Annexure R-1/T, is merely a receipt by the petitioner on 13.10.2016, there is no such nomenclature of a normal green house in the operational guidelines attached as Annexure R4/2 with the reply filed on behalf of respondent no.4. Similarly, there is no plausible explanation for the release of the subsidy at the rate of 50% to Mukhbain Singh Gill and denial of the same to the petitioner. Moreover, the fact that the respondent-State has itself realized the aberration and released the remaining amount to the petitioner, is reflective of his right.

In this view of the matter, the petitioner is held entitled to interest at the rate of 7.5% from 26.09.2017 till 05.03.2020.

Writ petition is accordingly, disposed of.

06.03.2020
s.khan

[LISA GILL]
Judge

Whether speaking/reasoned	:	Yes/No.
Whether reportable	:	Yes/No.