



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18743 of 2011

M.H. Agro Farm
rep. By its Partner
M.K.M. Mohammed Sabin
82, Kailashpuram Middle Street
Tirunelveli - 627 001
Tamil Nadu

... Petitioner

Vs.

1. The Government of India
Rep. by its Assistant Commissioner
(TE), Ministry of Rural Development
Department of Land Resources
NBO Buildings
'G' Wing, Nirman Bhawan
New Delhi - 110 001

2. The Government of Tamil Nadu
Rep. by the Special Secretary to Government and
Commissioner, DPAP,
Agricultural Department
Fort St. George
Chennai-9

3. The Corporation Bank
Rep. by its Branch Manager
Tirunelveli

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records in No.4-17/2000-TE, dated 11.02.2011 on the file of the 1st respondent and quash the same and further directing the 1st respondent to grant subsidy to the petitioner in accordance with Investment Promotional Development Scheme for Development of Non-Forest Waste Lands.

For Petitioner : Mr.J.Antony Jesus

For R1 : Mr.A.Kumaraguru
Central Government Senior Panel Counsel
[CGSPC]

For R2 and R3 : No Appearance



O R D E R

The order of rejection for grant of subsidy in proceedings dated 11.02.2011 issued by the 1st respondent is sought to be quashed and a direction is sought for to grant subsidy to the petitioner in accordance with the Investment Promotional Development Scheme for Development of Non-Forest waste Lands.

2. The petitioner states that the petitioner is a Firm, prepared a project for the development of non-forest waste lands by growing cashew nuts, sappotta and Gooseberry in an extent of 147.61 acres of lands at Sivaniarkulam, Tirunelveli District. The partners of the petitioner firm contributed a sum of Rs.21,78,473/- out of total project cost of Rs.54,28,474/-. The petitioner applied for a loan in the 3rd respondent Bank for an amount of Rs.32,50,000/- in accordance with the Investment Promotional Scheme for development of non-forest waste lands. The 3rd respondent Bank sanctioned loan in vide order dated 06.02.1998. Besides, the proposal also has been sent to the 1st respondent to avail the subsidy to an extent of Rs.9,41,386/-.

3. The petitioner has stated that the Government of India, as per the policy of the Government in accordance with the investment promotion scheme for development of non-forest waste lands, which was in existence before August 1998 and new scheme in the name of Investment Promotional Scheme was brought after August 1998. The petitioner states that they submitted an application under the new scheme introduced after August 1998 and the application was submitted in January 1999. The application submitted by the petitioner for grant of subsidy was not considered and the writ petitioner filed writ petition in W.P.No.2749 of 2005 and this Court passed an order on 08.11.2010, directing the respondents to reconsider the request made by the petitioner for grant of subsidy on merits and in accordance with the scheme for guidelines and communicate the same to the writ petitioner.

4. Pursuant to the orders passed by this Court, the petitioner was provided with the opportunity of hearing and the documents submitted by the petitioner were verified by the respondents. The respondents found that the petitioner is not eligible to avail the benefit of subsidy under the scheme as the application itself is submitted under the new scheme and the petitioner is eligible to avail subsidy only under the old scheme, which was prevailing prior to August 1998. In respect of the old scheme, the documents submitted by the petitioner became insufficient and thus, the claim of the petitioner was rejected.

5. The order impugned states that scrutiny of the documents revealed that the project was initially a business proposition



of the promoter with the commercial bank and subsequently, efforts was made to access subsidy from public exchequer. Therefore they formed an opinion that the business proposition designed for routine finance by the Commercial Bank, later on being tired to be used for getting Government subsidy at a belated stage without proper documents.

6. The authorities competent formed an opinion that the Bank loan was availed by the petitioner in a routine manner and the said loan availed was attempted to be converted under the scheme for the purpose of getting the benefit of subsidy and even in that case, the petitioner has not submitted the relevant documents for the purpose of considering the case.

7. The counter statement filed by the 1st respondent also clarified the said position in paragraph 4, which reads as follows:

"4. It is submitted that the project was financed by the Corporation Bank on 6.2.1998 (prior to 1.8.1998, the date of launching the revised guidelines) and the subsidy was being claimed as per the old guidelines. Moreover, the said project was neither prepared as per the provision of old guidelines nor as per revised guidelines. The project cost had not taken into consideration, the central subsidy while firming up the total cost by the bank after appraisal techno-economic feasibility of the project. The total cost firmed by the corporation bank was for Rs.54,28,474/- which included Bank loan of Rs.32,50,000/- and margin/promoters contribution of Rs21,78,473/-. Therefore, the project submitted was not covered either under the old guidelines or under the revised guidelines."

8. This Court is of the considered opinion that subsidy per se cannot be claimed as a matter of right. Subsidy, undoubtedly, is to be granted strictly based on the terms and conditions of the scheme. The petitioner himself stated in the affidavit that the application claiming subsidy was submitted under the new scheme, which was implemented after August 1998. The respondents also clarified that the petitioner may be eligible for subsidy only if it is under the old scheme, which was prevailing prior to August 1998.

9. Under those circumstances, the respondents formed an opinion that the routine loan sanctioned by the 3rd respondent / Nationalized Bank was attempted to be converted for the purpose of grant of subsidy, which is not permissible. Thus, they have rejected the application on the ground that the petitioner has not submitted all relevant documents.



10. This apart, the benefit of subsidy is to be granted only if the eligible applicants submit an application within a period of six months and in the present case, the petitioner has submitted the application after a lapse of about one and half years and that to under the new scheme. Therefore, there is no infirmity as such in respect of the order of rejection passed by the respondents.

11. In view of the fact that the petitioner has not established any acceptable ground for the purpose of considering the relief as such sought for, the Writ Petition fails and stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Jeni/Kak

To

1. The Assistant Commissioner,
The Government of India,
(TE), Ministry of Rural Development
Department of Land Resources,
NBO Buildings,
'G' Wing, Nirman Bhawan,
New Delhi - 110 001.
2. The Special Secretary to Government and
Commissioner, DPAP,
The Government of Tamil Nadu,
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Fort St. George.
3. The Branch Manager,
The Corporation Bank,
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MG (CO)
PR (02/12/2021)