IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29088 of 2019

S.V.Rajan @ Rajarajan ... Petitioner

Vs.

1. Government of Tamil Nadu
   Rep. by its Secretary
   Revenue Department
   Fort St. George
   Chennai – 600 009.

2. The District Collector
   Cuddalore District.

3. Project Officer and General Manager
   District Industries Centre
   Cuddalore. ...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the second respondent dated 26.08.2019 and quash the same and further direct the respondents to release the Thane Cyclone Relief Fund of Rs.11,66,530/- with interest to the petitioner as assessed by the Insurance Surveyor /Loss Assessor within a stipulated period as fixed by this Court.

For Petitioner : Mr.S.Parthasarathy

For Respondent : Mr. K.Karthikeyan
Government Advocate

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the order passed by the second respondent dated 26.08.2019 and quash the same and further direct the respondents to release the Thane Cyclone Relief Fund of Rs.11,66,530/- with interest to the petitioner as assessed by the Insurance Surveyor /Loss Assessor within a stipulated period as fixed by this Court.

2. The petitioner was doing the business of Powder Coating and painting by investing Rs.20,00,000/- after obtaining loan from the Indian Overseas Bank at S-10, SIDCO Industrial Estate, Semmandalam, Cuddalore. Since the petitioner's business was not running profitably, he has rented the front portion of the building to private Company. While so, on 30.12.2011, the Thane Cyclone had struck and his entire company premises and machineries were damaged and the same was unusable and he was constrained to close the business and incurred loss to the tune of Rs.12 lakhs. The Government of Tamil Nadu in order to grant relief to the cyclone hit persons, called for application through the 3rd respondent to grant relief. Based on the said notification on 09.02.2012, the petitioner submitted an application claiming damages to the tune of Rs.10,76,000/- along with all the required documents and the 3rd respondent on inspection, assessed the damages as Rs.11,66,530/-. On 08.11.2012, the 3rd respondent called for certain documents for grant of relief and the petitioner also immediately submitted all the documents. Inspite of lapse of two years, since no compensation was paid, the petitioner sent a representation to the 2nd respondent to grant compensation, but the 3rd respondent without considering the petitioner's business crises, has rejected his request for granting compensation, stating that the petitioner not doing the business of powder coating and the building occupied by the petitioner is run by some other person and on verification of the E.B.Card, it stands in the name of some other person and the Rental Deed was not furnished and further no Company was running and the same was used only as godown. Citing the said reasons, the request of the petitioner was rejected by the 3rd respondent. Against the said order, on 03.05.2013, the petitioner sent a representation to the 2nd respondent explaining his business situation. On receipt of the said representation, the 2nd respondent forwarded the same to the 3rd respondent, who in turn vide letter dated 14.05.2013 to the petitioner, had stated that the 2nd respondent had approved the rejection order of the 3rd respondent. Hence, the petitioner had filed W.P.No.29123 of 2014 before this Court challenging the said orders passed by the respondents 2 and 3. On 23.10.2018, this Court was pleased to dismiss the Writ Petition and the petitioner challenging the dismissal order, had filed W.A.No.414/2019 before this Court. On 26.02.2019, this Court had partly allowed the Writ Appeal and directed the 2nd respondent to consider his representation dated 03.05.2013. Therefore, the petitioner communicated the order to the 2nd respondent, who after issuance of contempt notice for non consideration of the petitioner's representation, had outrightly rejected his claim on 26.08.2019. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner submitted that the 2nd respondent had rejected his representation for the reason that the industry was not functioning on the date of cyclone and the building was used only for the purpose of godown, the E.B. Service connection was not in the name of the petitioner during the period of claim and further the E.B. Service connection was in the name of vendor who was utilizing the unit as godown, which requires low energy consumption. From the E.B.Card, the consumption unit was found only 70 to 230 units during the period of 27.12.2010 to 11.10.2012. Therefore, it is clear that there was no manufacturing activities at that time. Though the 2nd respondent has rejected the petitioner's request, citing the above said reasons, the petitioner has documents to substantiate the fact that the industry was functioning on the date of cyclone and for investment of Rs.20 lakhs in the business by obtaining loan from the Bank. Further the petitioner has produced the E.B.Card to substantiate that he was running the business and have contract with the SIDCO industries towards coating and electroplating business and further many companies have placed orders with the petitioner. However, the respondents without considering the material aspects, without application of mind has rejected the petitioner's request vide communication dated 26.08.2019 and therefore, the said order has to be quashed as it is not sustainable under law.

4. The learned standing counsel appearing for the respondents has drawn the attention of this Court to the counter affidavit and submitted that the Thane Cyclone has hit the District of Cuddalore on 30.12.2011 and caused heavy loss to several properties of the individuals a well as enterprises and as such in order to grant relief to the affected persons, the Government has constituted a Committee vide proceedings dated 02.11.2012 to inspect all the affected areas and enterprises to assess the damages and thereby, the writ petitioner herein has also made a claim before the 3rd respondent, who in turn forward the claim to the Committee. The three members committee inspected the above writ petitioner's industry and filed the report on 22.11.2012, reporting that during inspection, the related activity as said by the petitioner was not taking place and the unit was not in existence. The petitioner has said that the unit was involved in the activity of powder coating and painting job work only, but the powder coating activity involves more consumption. While so, the E.B. Reading from 27.12.2010 to 11.10.2012 shows consumed units from 70 to 230 units, which shows that the said activity was not taking place. Further the Unit holder was also required to produce the lease deed made with the lease holder to assess the date of lease, but the same was not furnished.

5. Furthermore, the 2nd Committee was also constituted to inspect the writ petitioner industry to assess the damages and to file a report, who in turn inspected the above said industries of the petitioner and agreed with the First Committee's inspection report and confirmed the same.

6. It is further submitted by the learned Government Advocate that the 3rd respondent after carefully gone through both the inspection reports, finally came up to the conclusion that the unit was not all functioning on the date of cyclone. Hence the claim of compensation is not admissible as per the guidelines issued by the Government and the 3rd respondent has rightly rejected the claim of the writ petitioner in consonance with the Committee report.

7. This Court has carefully considered the rival submissions and also produced the materials placed before it.

8. The facts in the present case is not in dispute. Admittedly, the petitioner made a claim petition before the 2nd respondent under the Government Scheme as per G.O.Ms.No.350, Revenue (D.M-II) Department, wherein the Government gives power to the District Collector for sanctioning relief to Micro, Small and Medium Enterprises affected by Cyclone 'Thane' in Cuddalore and Villupuram Districts. In the present case, the petitioner claims that he is doing the business of powder coating and painting in the above said property and the said industry was damaged and thereby, the petitioner claimed damages to the tune of Rs.10,76,000/- during the Thane cyclone and further the petitioner claims that in order to substantiate the running of business, he has produced Income Tax Returns document and his Company registration Certificate under Small Scale Industries and made allegation against the respondent that those documents were not properly considered.

9. After careful scrutiny of the documents produced, this Court is of the opinion that subsequent to the above said Government order, the respondent has issued a guidelines for verification of documents and procedures to be adopted for inspection and disbursement of Relief Assistant to MSME affected by the Thane cyclone. As per the above said guidelines, in Clause 2, it was held that only the units which have been already registered with DIC and obtained EM Part I or Part II or Provisional / Permanent SSI Registration Certificate and were in existence and functioning on the date of Cyclone shall be considered eligible for assistance. As per the said Clause, the petitioner is bound and duty to produce necessary documents to show that the petitioner's unit was in existence at the time of Cyclone. In the present case, the petitioner has annexed some

photograph, which does not reveal anything with regard to the functioning of the petitioner's Industry. Mere production of certificate, which was obtained in the year 2002, is not sufficient to held that the petitioner Industry is functioning at the time of cyclone and further the other documents produced to substantiate his claim is not binding on the respondents. Since, the fact finding authority, after due inspection of the premises and verification of records, arrived at a conclusion that the petitioner's Industry was not running at the time of Cyclone and rejected the claim of the petitioner, this Court is not inclined to interfere with the policy decisions of the respondents. Therefore, there is no error apparent on the face of the order dated 26.08.2019 passed by the 2nd respondent.

10. For the reasons aforesaid, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary
   Revenue Department
   Fort St. George
   Chennai - 600 009.

2. The District Collector
   Cuddalore District.

3. The Project Officer and General Manager
   District Industries Centre
   Cuddalore.

+1cc to Mr.S.Parthasarathy, Advocate, S.R.No.65670
+1cc to the Government Pleader, S.R.No.66132

W.P. No. 29088 of 2019

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NSK 31/01/2022