

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3673 OF 2021

Mrs. Lilabai W/o Rajiv Patil
Age – 65 years, Occu – Agri.,
R/o – Rajiv Patil Nagar,
Savada Road, Raver,
Tq. Raver, Dist. - Jalgaon

.. Petitioner

Versus

- 1] The Union of India
Through its Secretary,
Ministry of Agriculture,
and Farmer Welfare,
New Delhi
- 2] National Horticultural Board,
Ministry of Agriculture,
Government of India
Plot No. 85, Sector – 18 Institutional
Area Gurugram 122015
Through its Managing Director
- 3] The Deputy Director,
National Horticulture Board,
Nashik at Nashik
- 4] Axis Bank
Through its Branch Manager
Ashirwad Complex Near HDFC
Bank Opp. To IDBI Bank Station
Road, Raver, Jalgaon

.. Respondents

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Advocate for petitioner : Mr. S.B. Deshpande h/f. Mr. Pramod S. Gaikwad

Advocate for the respondent no. 1 : Mr. S.S. Deve

Advocate for respondents no. 2 and 3 : Mr. Amol N. Kakade

Advocate for respondent no. 4 : Mr. Mrigesh D. Narwadkar

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**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

**RESERVED ON : 22 AUGUST 2022
PRONOUNCED ON : 25 AUGUST 2022**

ORDER (MANGESH S. PATIL, J.) :

Heard.

2. Rule. Rule is made returnable forthwith. Mr. Deve waives service for respondent no. 1, Mr. Kakade waives service for respondents nos. 2 and Mr. Narwadkar waives notice for respondent no. 4. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner is aggrieved by the rejection of her proposal of release of credit linked back ended subsidy as per the scheme floated by the National Horticultural Board – respondent no. 2, by impugned communication (Exhibit – G) on the ground that the project work had already started and even respondent no. 4 – bank had released term loan when as per the In Principle Approval (IPA) guidelines, the project implementation and release of term loan should not have been started before getting IPA.

3. Learned advocate Mr. S.B. Deshpande h/f. Mr. Gaikwad for the petitioner strenuously took us through the IPA guidelines and other documents to point out that starting of the project is not anathema for entitlement to receive the subsidy. He would submit that the ground assigned for rejection of the proposal is flimsy and not sustainable in law. The petitioner has incurred huge expenditure of

more than Rs. 1.2 Crore for the project in anticipation of grant of the subsidy. It is not that some expenditure was already incurred and request was merely put up under the scheme to get the finance. It is newly set up. The petitioner is not averse to any inspection by the respondent no. 2 – Board but without undertaking any such inspection, the proposal has been rejected and, therefore, the order rejecting the proposal be set aside and the respondent no. 2 – Board be directed to release the subsidy.

4. Learned advocate Mr. Deshpande would submit that even now, the respondent no. 2 – Board may undertake an inspection and reconsider petitioner's proposal on its own merits.

5. Learned advocate for respondents no. 2 and 3 – Board Mr. Kakade would vehemently submit that the persons applying under the scheme for subsidy were supposed to first of all have an IPA which would have given an opportunity to them to examine inter alia viability of the project and to grant subsidy in appropriate cases including the total cost of the project. Giving a complete go-bye to such norm which is integral part of the scheme, the petitioner has already spent the money from her own pocket and also by way of a term loan sanctioned and disbursed by the respondent no. 4 – bank. The respondent no. 2 – Board is not responsible for and liable to sanction and disburse the

subsidy since it has been deprived of an opportunity of objectively examining the proposal before hand.

6. Mr. Kakade produced on record copy of the complaint filed by the petitioner's husband with Police Station, Raver inter alia complaining that the accused had made false promises and lured him and his family in going ahead and completing the shed-net construction by extending false promises of taking initiative and getting the subsidy disbursed from the respondent no. 2 – Board pretending that one of the accused was working as agent and would be able to route the proposal for grant of subsidy systematically through the respondent no. 4 – bank. He would, therefore, submit that accepting the allegations in the complaint, it would only demonstrate that the petitioner is suffering because of the fraud practised by someone else which has nothing to do with the obligation of the Board to disburse subsidies under the schemes.

7. True it is that the guidelines issued by the respondents for floating the credit linked back ended subsidy scheme with a view to promote horticulture, does not expressly prohibit the project being started before getting the subsidy or does not even expressly mention about getting the IPA from the respondent no. 2 – Board. Learned advocate Mr. Kakade also could not point out any such condition in the

guidelines. Therefore, ex facie, the ground on which the petitioner's proposal has been rejected does not seem to be sustainable.

8. However, simultaneously, one cannot overlook the fact that the petitioner has not approached this Court with clean hands. As is mentioned herein-above, it was pointed out by Mr. Kakade that the petitioner's husband had filed a police complaint on 08-02-2020 alleging that the employees of the respondents including the respondent no. 2 – Board, the employees of the respondent no. 4 – bank and few other individuals have cheated him and his family members in spending for the project by extending false promises of securing the subsidy. Conspicuous absence of this circumstance in the entire writ petition is sufficient to conclude that the petitioner is not coming to the court with clean hands.

9. If it is the stand of the petitioner and her husband that it is because of the fraud practised upon them that they had agreed and applied for the subsidy under that scheme floated by the respondent no. 2 – Board, the petitioner's proposal cannot be said to be a bona fide one. It is apparent that she was labouring under the fraud practised by the accused persons. The proposal was submitted in connivance with those accused persons for which the respondent no. 2 – Board cannot be blamed. True it is that this is not a ground being put

forth by the respondent no. 2 – Board for rejection of the proposal submitted by the petitioner.

10. However, when we find that the genesis for the proposal was not a bona fide attempt of the petitioner to develop her farm but was made due to some inducement, the fact which has been conveniently omitted to be pleaded, in our considered view, she is not entitled to any relief.

11. The petition is dismissed.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

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