

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.09.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.2940 and 2941 of 2013

and

M.P(MD).Nos.1,1 and 2 of 2013

Janet Mary

... Petitioner

in both petitions

Vs.

1.The Deputy Director,
Ornamental Fisheries Department,
Marine Products Export Development Authority,
AH 125, Shanthi Colony,
Anna Nagar, Chennai.

2.The Assistant Director,
Marine Products Export Development Authority,
No.106-J, 37 Millenpuram 2nd Street,
Tuticorin 628 008.

3.The Assistant Director,
Marine Products Export Development Authority,
MPEVA House, Pannampillai Avenue,
Cochin 682 036.

4.The State Co-ordinator,
Ornamental Fisheries Department,
Marine Products Export Development Authority,
AH 125, Shanthi Colony, Anna Nagar,
Chennai.

... Respondents
in both petitions

Prayer in W.P(MD).No.2940 of 2013 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the third respondent made in Reference No. 3/2/OFD/HO-2010-11 dated 17.01.2013 quash the same and consequently directing the respondents to sanction a sum of Rs. 7,50,000/- the subsidy amount eligible for the Unit-IV based on the petitioner's application No.SRO-TTN-GR-III-083.

Prayer in W.P(MD).No.2941 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the third respondent made in Reference No. 3/2/OFD/HO-2010-11 dated 17.01.2013 quash the same and consequently directing the respondents to sanction a sum of Rs. 1,04,185/- the balance amount eligible for the Unit-III based on the petitioner's application No.SRO-TTN-GR-III-082.

In both petitions

For Petitioner : Mr.N.Shanmugaselvam
For Respondents : Mr.K.Ashokkumar Ram (for R1 & R2)
Mr.B.Rajesh Saravanan (For R3)
No appearance (for R4)

COMMON ORDER

Both the writ petitions have been filed challenging an order passed by the third respondent herein, under which the request of the petitioner

for treating Unit-III and Unit-IV of ornamental fish breeding unit in Tuticorin District, as separate units was rejected. Under the impugned order, the third respondent had arrived at a conclusion that both the units can be treated only as a single unit and has released a subsidy amount of Rs.6,45,815/-.

2. According to the petitioner, he has applied for the subsidy amount, under the scheme for providing financial assistance for establishment of ornamental fish breeding unit. According to the petitioner, he has put up four units. As far as the Unit-I and Unit-II are concerned, the authorities have already released the subsidy amount and there is no quarrel over the same. The learned counsel appearing for the petitioner had relied upon the regulation 2.3 under the scheme, and contended that the Regional Committee alone is competent to decide about the viability of the project and sanction the subsidy amount. In the present case, according to the petitioner the committee members have already inspected the premises and they have recommended for sanctioning of Rs.7,50,000/- each for both the Unit-III and Unit-IV on 05.08.2010.

3.The learned counsel appearing for the petitioner further contended that though the Regional Committee has recommended for release of subsidy, one of the members of the said Regional Committee has passed the impugned order taking a different view that the Unit-III and Unit-IV should only be treated as a single unit and the subsidy amount of Rs.6,45,815/- alone can be released instead of Rs.7,50,000/- for each one of the units. Hence, according to the learned counsel appearing for the petitioner, once committee has recommended for releasing subsidy for both the unit separately, one of the members of the said committee cannot take a different view. Hence, he prayed for allowing of both writ petitions and release of subsidy amount of Rs.7,50,000/- for each one of the units.

4.Per contra, the learned counsel appearing for the respondents 1 to 3 has contended that though the Regional Committee has recommended for the release of subsidy amount of Rs.7,50,000/- for each one of the units, the same was not accepted by the Head Office. They found certain anomalies in the application and the bills submitted by the writ petitioner. Thereafter, at the instance of the Head Office, a fresh inspection was conducted over the Unit-III and Unit-IV on 23.03.2011.

A report was submitted. Based upon the said inspection, the report reflected various anomalies, which would result in holding that Unit-III and Unit-IV are not separate units, but they are single units. Only based upon the report submitted by the officials from the Head Office, the present impugned order has been passed. He further contended that the subsidy amount of Rs.7,50,000/- is only a maximum amount and it is for the committee to decide about the release of the subsidy amount and the petitioner cannot insist upon the payment of Rs.7,50,000/- as subsidy for each one of the units. Hence, he prayed for dismissal of the writ petition.

5.I have carefully considered the submissions made on either side.

6.There is no dispute that the petitioner has made his application seeking subsidy under the scheme for providing financial assistance for the establishment of ornamental fish breeding unit. The respondents without any issues, have released the subsidy amount for the Unit-I and Unit-2 of the writ petitioner. However, while releasing the subsidy amount for Unit-III and Unit-IV, the Head Office of the Regional Committee had raised various queries and they have conducted an

independent inspection. Based upon the said inspection, certain anomalies have been found and based upon the said report, the impugned order has been passed treating Unit-III and Unit-IV as a single unit.

7.As rightly pointed out by the learned counsel appearing for the petitioner that as per regulation 2.3.2 of the scheme, only the regional committee is the ultimate authority to decide about the fate of application seeking subsidy. In the present case, the Regional Committee has already recommended for release of subsidy amount of Rs.7,50,000/- for each one of the units. In violation of the committee report, one of the members of the said committee has passed the impugned order relying upon an enquiry report conducted by the officials of the Head Office. It is seen from the records that the enquiry report has not been furnished to the writ petitioner so as to offer his explanation for the said enquiry report.

8.In view of the above said facts, the order impugned in both the writ petitions are set aside and the matter is remitted back to the file of the third respondent herein. The petitioner is directed to submit his explanation for the enquiry report, which is annexed to the typed set of

papers filed by the respondent herein within a period of four weeks from the date of receipt of a copy of this order. On receipt of the explanation from the writ petitioner, the third respondent is directed to place the matter before the Regional Committee for passing appropriate orders. The Regional Committee shall take a final decision within a period of eight weeks from the date of receipt of a copy of the report from the third respondent herein.

9. With the above observations and directions, both the Writ Petitions are allowed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

08.09.2022

Index : Yes / No
Internet : Yes / No
vsg

R.VIJAYAKUMAR ,J.

vsg

Order made in
W.P(MD)No.2940 and 2941 of 2013

Dated:
08.09.2022