

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3117 of 2023

Harendra Kumar Thakur Son of Late Kedar Nath Thakur, Resident of Village and P.O.- Baheri, Police Station- Baheri District Darbhanga who is Working partner of Firm Kedar Nath Cold Storage , A and P.O . Baheri, Police Station Baheri, District- Darbhanga.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Agriculture and Farmers Welfare, Government of India.
2. The Secretary, Ministry of Agriculture and Farmers Welfare, Government of India.
3. The Managing Director, National Horticulture Board, Plot No. 85, Institutional Area, Sector-18, Gurgaon, Haryana.
4. The Area Officer (East Zone), National Horticulture Board, Plot No. 85, Institutional Area, Sector-18, Gurgaon, Haryana.
5. The Deputy Director, National Horticulture Board, Verma Centre, 5th Floor, Room No. 501, 5-02 Boring Road, Patna 800001

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dharendra Kumar Jha, Adv.
For UOI	:	Mr. Kumar Priya Ranjan, CGC
	:	Mr. Girish Nandan Abhishek, Adv.
	:	Ms. Nirmala Singh, Adv.
	:	Mr. Vibhuti Kumar, Adv.
For the Respondent/s	:	Mr. Additional Solicitor General

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

8 08-11-2023

Heard the learned counsels for the parties.

The present writ petition has been filed for the following relief(s):-

“For setting aside the letter No. NHB/GOC/10ABROCS000012/2022-23/5550 dated 14/10/2022 issued by Area Officer, East Zone of the National Horticulture Board (Respondent No. 4) by which he has rejected the Project Proposal, for the reason that the Project does not fulfil the eligibility criteria for grant of Clearance



(GOC) JIT (Joint Inspection Team)

II) For directing Respondent Authorities to reconsider the Project proposal of the petitioner and holding the same to be eligible for the Grant of Clearance and JIT so that the subsidy as per the Scheme may be released in his favour.

III) For any other relief or reliefs for which the petitioner may be found entitled.”

3. Learned counsel for the petitioner has stated that the petitioner has got In Principle Approval (IPA) on 29.12.2020 and, thereafter, the petitioner had approached the financial institutions for procuring the necessary loans. Learned counsel has stated that even though the petitioner has been following up with the Bank, the Bank has sanctioned the loan only on 06.11.2021. Learned counsel has stated that as per the guidelines issued by the authority, the IPA is valid for a period of six months which is extendable by another three months. Learned counsel has stated that the authority concerned has passed the impugned order rejecting the case of the petitioner for extending the IPA for further period vide impugned order dated 14.10.2022 (Annexure-12) only on the ground that the Bank has sanctioned the loan after a period of nine months. That the petitioner cannot be put to loss for the lapses committed by the Bank. The counsel has drawn the attention of the Court to the letter issued by the Bank dated 09.12.2021 (Annexure-8) stating that the Bank could not process the loan application of the petitioner due to



panchayat elections and other reasons. Learned counsel has relied on the judgment of the Hon'ble Supreme Court in ***Asset Reconstructions Company (India) Limited Vs. Tulip Star Hotels Limited and Others*** reported in **2022 SCC Online SC 944** to buttress his contention.

4. *Per contra*, the learned counsel appearing on behalf of the respondent has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner cannot be granted the relief sought in the present writ petition. Learned counsel has stated that as per the scheme of things, the petitioner was granted ample time to secure the loans from the Bank but he could not do so within the stipulated period of nine months. Learned counsel has stated that even though the Bank has sanctioned the loan on 06.11.2021, the petitioner has approached the authorities only in the month of July 2022 and the reason given by the petitioner that he was not keeping good health is also without any substance. That the firm of the petitioner is a partnership firm and even if the petitioner was sick, the other partners could had approached the authority concerned within time and, therefore, prayed this Hon'ble Court to dismiss the present writ petition.

5. A perusal of the impugned order passed by the



authorities reveals that the request of the petitioner for extending the time has been rejected solely on the ground that the Bank has sanctioned the loan after the expiry of the validity period of the IPA dated 29.12.2020, except the above stated reason no other reasons are given. Admittedly, the authorities are only granting In Principle Approval (IPA) for setting up the industry after which the petitioner has to get the necessary financial loans from the Banks. In this partition case, the petitioner has approached the Bank well within the time but due to some unavoidable reasons the Bank could not process the loan application within the time. The loan was sanctioned only in the month of November 2021. There is a delay of approximately 38 days in sanctioning the loan. The letter issued by the Bank dated 09.12.2021 (Annexure-8) reveals that the Bank could not process the loan application of the petitioner on the ground of closure of the government departments, festivals and also the *panchayat* elections held in the month of October and November 2021. The Hon'ble Supreme Court in the above cited case has held that the guidelines issued by the authorities concerned are only directory and cannot be treated as mandatory. Admittedly, the petitioner cannot be faulted for the lapses committed by the Bank-authorities in processing the loan



application. Moreover, the petitioner has also written to the authorities concerned that he was suffering from Corona Virus twice and, therefore, could not follow up with the authorities concerned. The petitioner cannot be faulted for the delay caused by the Bank in sanctioning the loan.

6. Having regard to the above mentioned facts and circumstances of the case, the impugned order dated 14.10.2022 (Annexure-12) is set aside and the matter is remanded back to the authorities concerned for considering the representation of the petitioner afresh duly taking into consideration the letter issued by the Bank on 09.12.2021 (Annexure-8) and also the contents of the representation given by the petitioner. The entire exercise shall be completed as expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, the present writ petition stands disposed off.

(A. Abhishek Reddy, J)

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