



W.P.Nos.4214 and 4215 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.4214 and 4215 of 2019

and

W.M.P.Nos.4735 and 4738 of 2019

M/s.Amman Farms and Chambers,
Represented by its Partner Mr.R.Palaniswamy,
No.694/1, Chandrapuram,
Dharapuram Road,
Tirupur - 641 608.

... Petitioner in W.P.No.4214 of 2019

M/s.R.B.Plantations,
Represented by its Partner Mr.P.Bagavathi,
No.694/1, Chandrapuram,
Dharapuram Road,
Tirupur - 641 608.

... Petitioner in W.P.No.4215 of 2019

Vs.

1. The Managing Director,
National Horticulture Board,
Plot No.85, Sector 1-B,
Institutional Area,
Gurgaon - 122 015.



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2. The Authorised Signatory,
National Horticulture Board,
Plot No.85, Sector 1-B,
Institutional Area,
Gurgaon - 122 015.

3. The Secretary,
Ministry of Agriculture and Farmer Welfare,
Room No.19, "Krishi Bhawan",
Raisna Road, Chanakyapuri,
New Delhi - 110 001.

4. The Deputy Director,
National Horticulture Board,
Module - 37, II Floor, Block - II,
SIDCO Readymade Garment Complex,
Industrial Estate, Guindy,
Chennai - 600 032.

... Respondents
in both W.Ps

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the letter dated 07.08.2018 of the second respondent and quash the same and pass a reasoned order on merits in accordance with law and consequently, direct the respondents to consider Back Ended Capital Investment Subsidy of Rs.26,97,600/- and Rs.26,61,200/- respectively to the petitioners' Firm as per their Agreement and Letter of Intent dated 09.06.2014 issued by the first respondent.



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For Petitioners
in all W.Ps : Mr.R.Jagadeesan
for Mr.K.V.Subramanian Associates

For Respondents
in all W.Ps : Ms.R.Rathidevi
for M/s.Rathidevi and Associates

COMMON ORDER

These Writ Petitions have been filed to call for the records pertaining to the letter dated 07.08.2018 of the second respondent and quash the same and consequently to pass a reasoned order on merits in accordance with law and also direct the respondents to consider Back Ended Capital Investment Subsidy of Rs.26,97,600/- and Rs.26,61,200/- respectively to the petitioners' Firm as per their Agreement and Letter of Intent dated 09.06.2014 issued by the first respondent.

2. The case of the petitioners' Firm is that it is engaged in cultivation of various agricultural crops and applied for new cultivation of Vegetables / Drumstick to the National Horticulture Board (hereinafter referred to as 'NHB'), Ministry of Agriculture, Gurgaon under the "Development of Commercial Horticulture Through Production and



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Post-Harvest Management Scheme”. After considering the application, the first respondent issued a Letter of Intent to the above said Firm on 09.06.2014 to the effect that the release of 100% back-ended subsidy will be made on submission of claim by the petitioners along with the required documents after release of at least 50% of the term loan. Based on the above said letter, the petitioners' Firm cultivated Drumstick in Theni and availed a term loan of Rs.50,00,000/- (Rupees Fifty Lakhs only) each from M/s.IDBI Bank Limited, Theni. As per the guidelines, IDBI Bank vide letter dated 30.07.2015 informed NHB about the 50% disbursement of loan and requested along with the required documents to release the subsidy as per the NHB guidelines. The officials of NHB orally conveyed that after completion of the project only, subsidy will be released.

3. It is the further case of the petitioners' Firm that on completion of the project, IDBI Bank once again applied along with the required documents to release the subsidy and the joint inspection was conducted on 16.06.2017. However, on 07.08.2018, the NHB informed the Branch



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Manager, IDBI Bank Limited, Theni Branch that the Committee discussed in detail and rejected the the proposal by observing that the Drumstick crop is not covered and not listed in the approved crops under the new guidelines of scheme with effect from 01.04.2014. The Letter of Intent dated 09.06.2014 to the petitioners' Firm was issued after the alleged new guidelines with effect from 01.04.2014. Therefore, the rejection of subsidy on 07.08.2018 by the NHB is unsustainable. NHB cannot issue the letter of intent on one hand and reject the subsidy based on the alleged new guidelines relied upon by them, which was issued prior to the issuance of the Letter of Intent. However, the subsidy claim was rejected on 07.08.2018 by the second respondent after a period of four years only after issuance of Letter of Intent and after a period of 14 months after conducting joint inspection, they cannot take advantage of their delay and reject the subsidy without any reason. The impugned letter issued by the second respondent is a non-speaking order and the action of the first respondent refusing to grant subsidy in favour of the petitioners' Firm is illegal.



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4. The learned counsel appearing for the petitioners' Firm would submit that the petitioners' Firm have borrowed a term loan from IDBI Bank and also invested huge amounts for cultivation of Drumstick. In this regard, representations were submitted by the Firm, but so far no representation was considered by the respondents for granting subsidy in respect of Drumstick. He further submitted that upon satisfaction, the first respondent issued a Letter of Intent for entitlement of loan for planting Drumstick and thereafter, the loan was granted and after obtaining the loan, the petitioners' Firm periodically paid the loan amount to the Nationalized Bank. However, the subsidy amount which was granted by the respondents was rejected on the ground that the cultivation of Drumstick is not covered under the guidelines and also not listed in approved crops under new guidelines of scheme with effect from 01.04.2014. Accordingly, he prayed for allowing these Writ Petitions.

5. Per contra, the learned counsel appearing for the respondents would submit that subsidy is a grant from the Government and any citizen



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cannot claim a right to get subsidy. The sanction and disbursement of the subsidy is strictly governed by the terms and conditions of the scheme and also the Letter of Intent was valid for one year from the date of issuance. The promoter should approach the Bank / FI of his choice immediately after obtaining the Letter of Intent from NHB and get his term loan sanctioned by the Bank / FI. Mere issuance of the Letter of Intent will not guarantee to grant the subsidy to the beneficiary unless the proposal implemented in accordance with the information given in the application of Letter of Intent / Detailed Project Report. The quantum of subsidy will be decided after taking into account the recommendation of the Joint Inspection Team as constituted by the NHB / Bank's Appraisal and Inspection Report. He further submitted that the petitioner's project file was placed before the Project Appraisal committee / Competent Authority (PAC) of the respondents with full facts, reports and documents. The Committee / Competent Authority, in its meeting which was held on 22.12.2016 and 18.06.2018 after duly considering the petitioners' project and after thoroughly examining the same in light of the scheme guidelines, came to



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the conclusion that “the cultivation of Drumstick is not covered under the scheme guidelines” and also the “cultivation of Drumstick is not covered and not listed in approved crops under the scheme guidelines”. Hence, the claim made by the petitioners' Firm for subsidy was rejected by the respondents which cannot be interfered with. Accordingly, she prayed for dismissal of these Writ Petitions.

6. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

7. The facts in the present case are not in dispute. Admittedly, the first respondent issued the Letter of Intent to the above said Firm on 09.06.2014 for availing loan for cultivation of Drumstick and the petitioners are the owner of the cultivation of the crops. After issuance of the Letter of Intent, the petitioners' Firm made an application before the official respondents for grant of subsidy. However, the said application was rejected on the ground that the cultivation of Drumstick is not covered under the



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scheme guidelines and the same is not listed in approved crops under the scheme guidelines. Unless the petitioners' Firm satisfies before this Court by production of records, the Drumstick is covered under the scheme guidelines and the same is listed under the approved crops, their case would be considered. In the absence of any material, the impugned order passed by the second respondent cannot be interfered with.

8. Accordingly, these Writ Petitions are dismissed in the above terms. Consequently, connected Miscellaneous Petitions are closed. No costs.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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Gurgaon - 122 015.
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