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WP No.14843 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-03-2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.14843 of 2014

1.M.Selvaraju

2.S.Sivakami Sujareetha

3.D.Manickam

..

Petitioners

VS.

1.National Horticulture Board,
Represented by its Managing Director,
Ministry of Agriculture,
Government of India,
No.85, Institutional Area, Sector-18,
Gurgaon-122 015,
Haryana.

2.The Joint Director (South),
National Horticulture Board,
Ministry of Agriculture,
Government of India,
No.85, Institutional Area, Sector-18,
Gurgaon-122 015,
Haryana.



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3. The Deputy Director,
National Horticulture Board,
Ministry of Agriculture,
Government of India,
Module-37, II Floor, Block-II,
SIDCO Readymade Garment Complex,
Industrial Estate, Guindy,
Chennai-600 032.
 4. The 33rd State Letter of Intent Committee (Tamil Nadu),
of the National Horticulture Board Represented by its
Member Secretary, Ministry of Agriculture,
Government of India,
Module-37, II Floor, Block-II,
SIDCO Readymade Garment Complex,
Industrial Estate, Guindy,
Chennai-600 032.
 5. The Manager,
Punjab National Bank,
West Mogappair Branch,
No.4/2, Nolambur Main Road,
Chennai-600 037.
- .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the Minutes of Serial No.1 of the Spot Agenda of the 33rd State Letter of Intent Committee [Tamil Nadu] of



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the National Horticulture Board on the file of the fourth respondent herein dated 13.11.2013 quash the same and consequently direct the respondents 1 to 3 herein to grant subsidy to the petitioners herein as recommended by the fifth respondent-Bank by its letters dated 05.02.2013 and 30.04.2013.

For Petitioners : Mr.T.Murugamanickam,
Senior Counsel for Ms.Zeenath
Begum.

For Respondents-1 to 4 : Ms.R.Rathi Devi for
M/s.Rathi Devi and Associates.

For Respondent-5 : Mr.K.K.Anantha Padmanabhan

ORDER

The present writ petition has been instituted to quash the proceedings of the Minutes of of Serial No.1 of the Spot Agenda of the 33rd State Letter of Intent Committee [Tamil Nadu] of the National Horticulture Board on the file of the fourth respondent herein dated 13.11.2013 and



consequently direct the respondents 1 to 3 herein to grant subsidy to the petitioners herein as recommended by the fifth respondent-Bank by its letters dated 05.02.2013 and 30.04.2013.

2. The writ petitioners admittedly submitted an application for Letter of Intent under the Scheme “Development of Commercial Horticulture through Production and Post Harvest Management” of National Horticulture Board. As per the Prospectus, a group of individuals or a legal person may apply for issue of Letter of Intent. Accordingly, all the three writ petitioners jointly submitted an application under the Scheme for the purpose of grant of subsidy. As per the Scheme, the petitioners availed loan from the Punjab National Bank and communicated the same to the respondents for the purpose of sanctioning the subsidy.

3. The learned Senior Counsel appearing on behalf of the writ petitioners mainly contended that as per the Prospectus issued under the Scheme, the Letter of Intent application with project cost upto Rs.50 lakhs



may be sent to Center In-charge of the respective States and the petitioners have sent their application by following the procedures as contemplated.

They have submitted their loan application before the Punjab National Bank jointly and the Bank for their convenience subsequently asked the writ petitioners to change as 'Partnership Firm', which was done by the petitioners for the purpose of availing the bank loan.

4. The learned Senior Counsel appearing on behalf of the writ petitioners reiterated that the bank loan was sanctioned and the petitioners utilised the said bank loan for the purpose stated in the application and thereafter, approached the respondents for approving the Letter of Intent for grant of subsidy.

5. The petitioners have stated that they have not intended to convert individual loan application as 'Partnership Firm' and at the instance of the Punjab National Bank, they have agreed for such conversion and therefore, they need not be deprived of their benefit of subsidy as per the



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Scheme.

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6. The learned Senior Counsel appearing on behalf of the writ petitioners drew the attention of this Court with reference to the application submitted by the writ petitioners regarding sanctioning of loan and conversion of individual loan application as 'Partnership Firm' and other procedures, which would reveal that the petitioners availed the bank loan for the purpose of developing the Horticulture Farm and therefore, the decision taken by the respondents denying the subsidy to the writ petitioners is arbitrary.

7. The reasons stated for rejection of subsidy to the writ petitioners are that Letter of Intent issued in favour of the individuals/writ petitioners. However the bank loan was availed in Partnership Firm i.e., 'Ekantham Garden'.

8. The State Committee, in its Minutes, has recorded that the



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documents submitted are differed for claim of subsidy and therefore, they are not eligible to avail the benefit of subsidy under the Scheme.

9. The learned Senior Counsel appearing on behalf of the writ petitioners reiterated that by stating that the bank loan application was submitted in the name of the writ petitioners in their individual capacity and at the instance of the Punjab National Bank, the loan was sanctioned in the name of Partnership Firm i.e., 'Ekantham Garden' and therefore the petitioners need not be deprived of their benefit of subsidy under the Scheme.

10. The learned counsel appearing on behalf of the respondents relied on the conditions stipulated in the Prospectus. Clause (ix) of the Prospectus stipulates that “applicant has to take prior approval from the Board before effecting change of project land, crop, area, bank etc., in the proposal”.



11. In the present case, the application was submitted in the name of the three individuals, namely, the writ petitioners. However, the loan was sanctioned in the name of the Partnership Firm. Though the individuals/petitioners are partners, the petitioners have not taken any prior approval from the Board for the purpose of considering their case and thus they are not eligible to avail the benefits of the Scheme.

12. The learned counsel for the respondents relied on the letter dated 23.07.2012 issued by the National Horticulture Board, wherein the conditions for issuance of Letter of Intent was stipulated. Condition (v) states that “Mere issuance of Letter of Intent (LOI) will not guarantee the grant of subsidy to the beneficiary unless the proposal is implemented in accordance with the information given in the application of LOI/Detailed Project Report (DPR) and within the guidelines of the Scheme. Any deviation in the implementation of the project will lead to rejection of proposal for which promoter will be solely responsible”.



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13. Thus the conditions stipulated both in the Prospectus and in the Letter of Intent issued, are unambiguous that the Project must be implemented based on the details given in the application and in the event of any deviation prior approval of the Board is mandatory. It is further stipulated that mere issuance of Letter of Intent will not guarantee the grant of subsidy to the beneficiary unless the proposal is implemented in accordance with the information given in the application of Letter of Intent /Detailed Project Report (DPR) and within the guidelines of the Scheme. Any deviation in the implementation of the project will also lead to rejection of proposal.

14. In the present case, though the petitioners utilised the funds for Horticulture purpose, they have submitted their application initially in their individual capacity and subsequently, the said application was converted as 'Partnership Firm' and the bank loan was sanctioned in the name of 'Partnership Firm'. Thus the bank loan was availed in the name of



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the 'Partnership Firm' and for such conversion, the petitioners, admittedly, had not obtained any prior approval from the Board for the purpose of availing the benefits of the Scheme.

15. The Scheme for Subsidy is granted in order to encourage the Horticulture activities and the Board is bound to follow the procedures scrupulously. The subsidy, per se, cannot be claimed as an absolute right. Thus the conditions imposed for availing the benefit of subsidy must be scrupulously followed by the applicants.

16. In the present case, admittedly, an application was submitted by the writ petitioners in their individual capacity and Punjab National Bank sanctioned the loan in the name of the 'Partnership Firm' and further, the writ petitioners have not obtained any prior approval from the Board for such conversion of loan or otherwise.



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17. Therefore, this Court do not find any infirmity in respect of the reasons stated in the impugned Minutes. Consequently, the writ petition stands dismissed. However, there shall be no order as to costs.

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Speaking Order/Non-Speaking Order.

Neutral Citation : Yes/No.

Internet : Yes/No.

Index: Yes/No.

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To

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National Horticulture Board,
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2. The Joint Director (South),
National Horticulture Board,
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No.85, Institutional Area, Sector-18,
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Haryana.
3. The Deputy Director,
National Horticulture Board,
Ministry of Agriculture,
Government of India,
Module-37, II Floor, Block-II,
SIDCO Readymade Garment Complex,
Industrial Estate, Guindy,
Chennai-600 032.
4. The Member Secretary,
The 33rd State Letter of Intent Committee (Tamil Nadu),
of the National Horticulture Board,
Ministry of Agriculture,
Government of India,
Module-37, II Floor, Block-II,



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SIDCO Readymade Garment Complex,
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S.M.SUBRAMANIAM, J.

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