



W.P(MD)No.3410 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3410 of 2015

M.Amala Selva Rani

... Petitioner

Vs.

1.The Secretary,
Animal Husbandry,
Scheme for Poultry Development in
Non-Poultry Backward Region,
Tirunelveli.

2.The Regional Joint Director,
Animal Husbandry,
Tirunelveli District.

... Respondents

Prayer : 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 impugned order of the 2nd respondent in Na.Ka.No.3333/E1/2014 dated 12.02.15 and quash the same and consequently direct the 2nd respondent to disburse the subsidy amount for the poultry Unit as per his sanction order dated 03.11.14 within the time fixed by this Court.

For Petitioner : Mr.H.Arumugam

For Respondents : Mr.N.GA.Nataraj
Government Advocate



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ORDER

Heard both sides.

2. The petitioner Mrs.Amala Selva Rani is a post graduate degree holder M.S.(IT). The petitioner's husband is running a poultry farm. The petitioner also decided to become an entrepreneur. Having assisted her husband in his poultry business, the petitioner had gained sufficient experience. She applied to the second respondent seeking assistance under the scheme framed vide G.O.(Ms).No.106, Animal Husbandry, Dairying and Fisheries department, dated 26.05.2014. The petitioner was identified as a beneficiary and the second respondent went to the lending institution calling upon them to process the petitioner's loan application speedily. Sanction for releasing the subsidy was issued by the second respondent vide proceedings dated 03.11.2014. As per the terms of sanction, a sum of Rs.2,68,750/- was to be given by the Government of Tamil Nadu as subsidy. While so, without notice to the petitioner, sanction was cancelled on 12.02.2015. Challenging the same, the present writ petition came to be filed.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The second respondent has filed counter affidavit and the learned Government Advocate took me through its contents.

5. The only reason set out in the impugned order is that the petitioner's husband had already availed benefit under the petition mentioned scheme. According to the respondents, in matters such as this, the benefit is extended only to one member in a family and that the husband and wife cannot separately and individually claim the benefit. It is pointed out that the petitioner's husband Thiru.Selvin David availed subsidy to the tune of Rs.2,06,250/- in the year 2012-2013. The petitioner's husband had also applied through the very same integrator namely M/s.Swami Feeds. The stand of the respondents is that the disbursement of the financial subsidy



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will have to be extended to all the needy persons and one family cannot be allowed to enrich themselves. The counter affidavit invokes the socialistic principles set out in Part IV of the Constitution of India. The learned Government Advocate called for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record. It is true that the petitioner's husband had availed subsidy during the year 2012-13. The petitioner applied under the very same scheme for the year 2014-15. The only question that calls for consideration is whether the petitioner can be denied assistance on the ground that her husband had already been granted the benefit during the previous year. It is true that in the counter affidavit, reference has been made to other schemes such as MGNREGA and Indira Awas Yojana wherein the benefit is given only to one member of the family. In my view, the respondents are not justified in referring to the terms and conditions found in other schemes. I called upon the learned Government Advocate to draw my attention to any specific clause set out in the scheme for poultry



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development formulated by the Government of Tamil Nadu during the relevant period. Clause 4.4 (ii) reads as follows:-

4.4 The following are the eligibility criteria for availing the assistance under the Scheme:

ii One time assistance only:

An individual is eligible for availing assistance only once for each component. However, if a beneficiary has already put up a shed with his own cost, he can also avail assistance under this Scheme for putting up a 'New Shed' since farmers / beneficiaries, who already have an experience in poultry rearing are sought to be further encouraged to promote poultry development in Non-Poultry areas.

When a new shed is put up in addition to the existing shed, an applicant can very well seek assistance again. Applying the same logic, merely because the petitioner's husband had already put up a shed by availing assistance, the petitioner cannot be denied the right to put up an independent shed of her own. All that the second respondent should have done was to have conducted a field inspection before passing the impugned order. If the petitioner had claimed the benefit on the strength of the shed put up by her husband by availing the benefit of the scheme, the impugned order could have definitely been sustained. But that is not the case here.



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7. The stand of the respondents is that the petitioner cannot make an independent application. When the scheme does not contain any such restrictive stipulation, it is not open to the second respondent to deny the benefit by invoking a non-existent clause. Reference to clauses found in other schemes is irrelevant. The second respondent has committed the following three errors:-

A. Not putting the petitioner on notice before passing the impugned cancellation order.

B. Not conducting a spot inspection to verify if the shed put up by the petitioner is separate and distinct from the shed put up by her husband.

C. Referring to the terms and conditions found in the other schemes.

The order impugned in the writ petition is set aside. The respondents are directed to release the petition mentioned subsidy amount within a period of eight weeks from the date of receipt of a copy of this order. If the subsidy amount is released within eight weeks, it shall not carry any interest. If the respondents fail to release the subsidy



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amount, the petitioner will be entitled to interest at the rate of 6% per annum from the date of filing of the writ petition.

8. The Writ Petition is allowed. No costs.

07.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

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G.R.SWAMINATHAN, J.

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