



W.P(MD)No.23208 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P(MD)No.23208 of 2022
and
W.M.P.(MD).No.17300 of 2022**

S.Parthiban

... Petitioner

Vs.

1.The General Manager,
District Industries Centre,
Thoothukudi District, Thoothukudi.

2.The Branch Manager,
District Industries Centre,
the Tamil Nadu Industrial
Investment Corporation Limited,
Thoothukudi.

3.The Regional Manager,
The Tamil Nadu Industrial Investment
Corporation Limited,
No.5c/5b, Sakunthala
Shopping Complex II Floor,
Trivandrum Road,
Vannarapettai, Tirunelveli.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in TIIC/TUTY/PROJ/2022-23, dated 24.08.2022 and quash the same and direct the respondents to accept the petitioner's application given under Unemployed Youth Employment Generation Programme (UYEGP) Scheme and provide financial assistance including subsidy.

For Petitioner : Mr.R.V.Rajkumar

For R-1 : Mr.M.Sidharthan,
Additional Government Pleader

For R-2 & R-3 : Mr.R.Saravanan

ORDER

Heard the learned counsel on either side.

2.The writ petitioner is engaged in manufacturing paver blocks. The petitioner applied for financial assistance and loan under what is known as "PMEGP" Scheme. It was rejected. He was advised to apply under UYEGP Scheme. When the petitioner submitted an application on 11.10.2021, it was returned by the third respondent for the following reason :



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*“As per Circular R.C.No.11405/D1C4/2022
Dated : 29.04.2022, projects pending with
Financial Institutions under UYEGP may be
withdrawn and candidate may be requested to re-
apply under PMEGP. Hence, we return the
application received under UYEGP.”*

Assailing the same, the present Writ Petition came to be filed.

3.The learned counsel appearing for the writ 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 communication and grant relief as prayed for.

4.The learned Additional Government Pleader appearing for the first respondent as well as the learned Standing Counsel appearing on behalf of the Tamil Nadu Industrial Investment Corporation Limited submitted that the impugned communication has to be sustained in view of the Circular issued by the Industries Commissioner and Director of Industries and Commerce, Chennai, vide R.C.No.11405/D1C4/2022, dated 29.04.2022. The operative portion of the Circular reads as follows:

*“It is once again reiterated that trading
projects only should be forwarded and assisted
under UYEGP. The claims for manufacturing and*



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service sector projects received, if any, shall be processed and honored, if only the loan had already been disbursed to the beneficiaries already. The financial institutions, may well be, asked to withheld the pending applications and to return them. The proposals may be re-applied under PMEGP.”

The respondents, therefore, contended that the impugned communication does not warrant interference.

5.I carefully considered the rival contentions made on either side and went through the materials available on record.

6.The petitioner applied under UYEGP Scheme by taking advantage of G.O.Ms.No.80, Micro, Small and Medium Enterprises (D2) Department, dated 30.07.2010. Clause 9 of the said Government Order reads as follows:

“9.Activities covered:

All economically viable manufacturing, service and business activities excluding direct agricultural operations like raising crop etc.,”



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It is the Government that issued the order. Relying on the decision of the Hon'ble Supreme Court in the case of *M/s.Ispat Industries Ltd. vs. Commissioner of Customs, Mumbai* reported in (2006) 12 SCC 583, the learned counsel for the petitioner rightly contended that the Circular issued by the Industries Commissioner cannot prevail over the G.O issued by the government. Whenever there is conflict between a norm in a higher layer and a norm in the lower layer in the hierarchy of laws, the one in the higher layer will prevail. When there is conflict between executive instructions and the Government Order, it is the Government Order that will prevail over the executive instruction. When G.O. (Ms).No.80, Micro, Small and Medium Enterprises (D2) Department, dated 30.07.2010 has not been modified or recalled, an applicant is entitled to take advantage of the same.

7.The learned counsel also points out that the Circular dated 29.04.2022 issued by the Industries Commissioner and Director of Industries and Commerce, Chennai, pertains to UYEGP target 2022-2023. The petitioner's application is in respect of the previous financial year. There is a considerable force in the contention that the



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Circular dated 29.04.2022 cannot come in the way of granting relief to the petitioner.

8.For the reasons stated above, the impugned endorsement made by the second respondent in THIC/TUTY/PROJ/2022-23, dated 24.08.2022 is set aside. The first respondent is directed to accord approval in favour of the petitioner as expeditiously as possible and thereafter, respondent Nos.2 and 3 will extend financial assistance including the subsidy to the petitioner as per the norms.

9.The writ petition is allowed in these terms. No costs. Consequently, the connected miscellaneous petition is closed.

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03.11.2023

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

The General Manager,
District Industries Centre,
Thoothukudi District,
Thoothukudi.



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G.R.SWAMINATHAN, J.

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