

IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

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CWP-36021-2019 (O&M).
Date of Decision: 11.05.2023.

M/S BHUPINDRA AGRICULTURE WORKS

.. Petitioner

Versus

THE UNION OF INDIA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rajesh Kumar Girdhar, Advocate, and
Mr. Chirag Girdhar, Advocate,
for the petitioner.

Mr. Bharat Bhushan Sharma, Senior Panel Counsel,
for respondents No.1 and 3/Union of India.

Mr. Nirmal Singh Jagdeva, Advocate,
for respondent No.2.

Mr. Hemant Hans, Advocate, for
Mr. Bhushan Bhatia, Advocate, for respondent No.4.

VINOD S. BHARDWAJ, J. (ORAL)

The instant writ petition has been filed for seeking quashing of order dated 13/17.06.2019 (Annexure P-21) and order dated 29.07.2019 (Annexure P-22) vide which the representation of the petitioner for releasing subsidy amount has been rejected. A further challenge has also been raised to the Enquiry Report dated NIL (Annexure P-12) on the ground that the same is illegal, arbitrary and non-speaking.

The grievance of the petitioner, in brief, is that the admissible subsidy has been denied to the petitioner notwithstanding that the petitioner

was eligible for the same and had also been found to be entitled by the respondents at the initial stages. However, the claim for subsidy was illegally rejected by the respondents and recovery affected.

Per contra, the stand of the respondents is that the terms and conditions of the Prime Minister's Employment Generation Programme (for short 'PMEGP') clearly prescribes that in order to be eligible, the project in question had to be a new project sanctioned under the aforesaid Prime Minister's Employment Generation Programme. Learned counsel for the respondents further submit that a complaint was received against the petitioner-unit that it was not a new unit and rather was an existing unit whereupon a Committee was constituted to verify the said fact. The said Committee submitted its report as per which it recommended that the petition unit may be kept under an "existing unit category" and not as a new Unit. In furtherance to the aforesaid report, the petitioner returned the subsidy already sanctioned in his favour which itself establishes the stand of the respondents that the petitioner never established a new Unit and the benefit of the subsidy cannot be availed on the existing Unit.

Learned counsel for the petitioner contends that the stand of the respondents is not well corroborated and that the evidence of the petitioner had not been taken into consideration by the said Committee. The recommendation of the said Committee is only to the effect that the Unit may be kept under an "existing category" and the same is not a conclusive report. He submits that there are numerous documents that are available in possession of the petitioner which would establish that the Unit in question was a new unit and the petitioner was fully eligible for the subsidy under the aforesaid Prime Minister's Employment Generation Programme.

I have heard the learned counsel appearing for the respective parties and have also gone through the documents appended along with the present petition.

A perusal of the rival contentions made by the parties establishes that disputed questions of fact arise for determination in the present writ petition. Such questions cannot be gone into by a High Court in exercise of its jurisdiction under Article 226 of the Constitution of India. The present writ petition is accordingly dismissed for the above reasons as it is involving the disputed questions of fact. The petitioner shall, however, be at liberty to pursue his remedies in accordance with law.

The period during which the present writ petition has remained pending shall, however, be duly considered while computing the period of limitation.

May 11, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No