IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24283 of 2013

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Upendra Rai Son Of Bhirgunath Rai Resident Of Village and P.O. Paharpur, P.S. Garkha, District - Saran

... ... Petitioner/s

Versus

1. The State Of Bihar
2. The District Magistrate, Saran At Chapra
3. The Superintendent Of Police, Saran At Chapra
4. The General Manager, District Industries Centre, Saran At Chapra
5. The Union Bank Of India, Head Office Union Bank Building 239, Vidhan Bhawan Marg, Mumbai - 400021 T
6. The Chairman, The Union Bank Of India, Head Office Union Bank Building 239, Vidhan Bhawan Marg, Mum
7. The General Manager/Authorised Officer-Cum-Nodal Regional Officer, Union Bank Of India, Regional Of
8. The Branch Manager, Union Bank Of India, Doriganj Branch, At And P.O. Doriganj, District Saran
9. The Khadi And Village Industries Commission, Khadi Gramodyog Bhawan, No. 24 Regal Building, Connaug
10. The Chairman, The Khadi And Village Industries Commission, Khadi Gramodyog Bhawan, No. 24, Regal B
11. The Director, Bihar State Branch Khadi and Village Industries Commission, Po - B.V. College, Shekhp

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mrs.Sandhaya Kumari Sinha, Adv.
	:	Mr. Kripa Nand Jha, Adv.
For the State	:	Mr.Madanjeet Kumar, GP 20.
For the Bank	:	Mr. Anant Kumar Sharan, Adv.
	:	Mr. Prabhat Kumar Sharan, Adv.
	:	Mr. Hemant Kumar Sharan, Adv.

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL ORDER

11 28-03-2024 The writ petition has been filed seeking relief to issue direction to the respondent no. 9 (Khali and Village Industries Commission) to transfer the payment of subsidy amount along with interest into the account of petitioner bearing DLPO A/C No. 415206110016007 which was to be payable

and deposited by the respondents having granted the loan under KVIC Scheme. Further for issuance of direction to the respondent Bank to provide subsidy rejection order to the petitioner along with all concerned documents, letters, correspondence etc. as well as statement of account of the dues of the Bank to the petitioner reducing subsidy amount and payable interest thereon with its due date and for quashing of the said subsidy rejection order.

2. Further the relief sought by the petitioner is to direct the respondent Bank to make one time settlement after adjustment of the amount paid by the petitioner, pursuant to the interim order dated 07.09.2012 of D.R.T., and for any other relief or reliefs for which the petitioner is found legally entitled to.

3. The brief facts culled out of petition are that the petitioner contacted the Zila Udyog Kendra, Chapra after making requisite enquiries for doing the necessary preliminary work and further made his application for loan for running M/S Shivam Rice Mill (a small scale industry) at village Paharpur under KVIC Scheme (REGP) with the help of Bank loan. Accordingly, he annexed all the documents which are necessary for loan.

4. The General Manager of District Industries Centre (Maha Prabandhak, Zila Udyog Kendra, Saran) considered the application of the petitioner and forwarded the same vide letter no. 1401 dated 14.10.2006 which clearly disclose that the loan application was under KVIC Scheme for Rs. 9,23,663.00/- with margin amount (consisting of Rs. 03,01,113.00/- as term loan and Rs. 6,27,540.00/- as working capital) which is disclosed as per Annexure-1.

5. The petitioner submitted his loan application form and the project report, which ought to have been scrutinized by the respondents and rejected before sanctioning the loan if subsidy could not given. As per the rule, it is very clear that out of the loan amount, the Bank will claim for 30% of the margin money from KVIC, Patna Branch, which is less than Rs. 2,93,263/- and on the receipt of the margin money, the Bank will deposit the same in the name of proprietor in a fixed deposit for two years which will be declared as subsidy and Bank will adjust the said amount towards the loan.

6. The respondent Bank granted term loan of Rs. 3,00,000/- and Rs. 6,28,000/- as cash credit to the petitioner towards Shivam Rice Mill (Small Scale Industries) as per the terms of the KVIC Scheme which was sanctioned in the month of January, 2007 and the accounts bearing No. TLPO A/c No. 415206110016007 and CC A/c No. 415205010000179 were opened in the name of the petitioner. As per the terms and conditions of KVIC scheme the respondent Bank officials were under a legal duty to seek margin money i.e. subsidy of Rs. 2,93,262/- from KVIC which has to be deposited by way of FDR for a period of two years and adjust the said amount from the loan.

7. It is the contention of the learned counsel for the petitioner that the petitioner has made several representations to the respondents including the Bank officials for deposit of subsidy amount and for adjustment towards the loan account (vide Annexure 2). The respondent bank vide letter dated 25.03.2011 directed the petitioner to deposit the amount due with both the loan accounts otherwise his FDR for rupees one lakh will be broken and shall be deposited in both (vide Annexure – 3). In response to Annexure 3, the petitioner addressed a letter to the respondent Bank on 08.04.2011 asking the Bank to deduct the subsidy amount with interest and to give the statement of account mentioning amount payable by the petitioner on the said two loan accounts (vide Annexure 4).

8. It is also the contention of learned counsel for the petitioner that instead of giving the details of the statement of account, a notice was being issued by the respondent Bank under the SARFAESI Act , 2002 under Section 13(2) directing the petitioner to pay a total amount of Rs. 8,62,545/- for the two loan account within a period of sixty days (vide Annexure – 5). The petitioner has sent an objection dated 08.08.2011 to the respondent Bank raising the issue of adjustment of subsidy amount of Rs. 2,93,262.00/- and also contended that the FDRs cannot be broken without his consent (vide Annexure – 6 and 7).

9. It is also the specific contention of learned counsel for the petitioner that petitioner has initially filed C.W.J.C. No. 19530 of 2011 before this Court, challenging the notice issued to him under SARFAESI Act, wherein symbolic possession was taken by the respondent bank on 21.10.2011. This Hon'ble Court was pleased to dispose of the Writ Petition dated 29.02.2012 giving liberty to the petitioner to prefer an appeal before the Debt Recovery Tribunal, Patna.

10. As per the order of this Court in C.W.J.C. No. 19530 of 2011 dated 29.02.2012 the petitioner preferred an appeal before the DRT, Bihar, Patna vide S.A. No. 113 of

2012 along with delay condonation petition and the same was admitted by the DRT on 04.07.2012. Further the said appeal underwent several adjournments and status quo order was passed by the DRT, on a condition to deposit of 50% of the dues amount. It is specific contention of the learned counsel for the petitioner that as the respondent KVIC could not appear for the DRT, final order was passed by the DRT dated 11.10.2012 directing the petitioner to approach the Bank, which will supply the petitioner's document of rejection of subsidy by the KVIC.

11. Being aggrieved by the orders of DRT, the petitioner has approached this Court by way of filing a writ petition bearing C.W.J.C. No. 131 of 2013, but this Court was pleased to dismiss the said writ petition containing the orders of the D.R.T. It is contended by the counsel for the petitioner that pursuant to the observation of DRT orders, the respondent Bank Manager was obliged to give the details and dues, after deducting subsidy amount and the interest payable thereon, but the Bank has failed to do so for which he was constrained to file a representation dated 07.09.2013 for supply of the copy of the subsidy rejection order.

12. As the respondent bank did not respond the petitioner was constrained to prefer a writ petition seeking the aforesaid reliefs.

13. A detailed counter was filed by the respondent Bank which disclose that no subsidy has been credited to the loan account of the petitioner. The counter further disclose that M/S Shivam Rice Mill loan account is closed on 19.02.2020. So it is very difficult to trace out the file of the loan account of the petitioner. Further it disclose that the petitioner may be directed to purse the matter with the state officials. Except the Bank, the other respondents have not filed the counter.

14. Heard the learned counsel for the petitioner and learned counsel for the respondent and perused the records.

15. On perusal of the entire records, it is evident that the petitioner was not granted with subsidy under KVIC scheme. Petitioner is entitled for subsidy. The property of the petitioner was kept for auction for which the petitioner has deposited the entire loan amount in the Bank. In view of the payment of the loan amount, the account of the petitioner was closed. Admittedly, the petitioner is entitled for his subsidy amount for the loan availed by him under KVIC Scheme. Therefore, he is at liberty to approach the respondent no. 4 to avail the said remedy.

16. With the aforesaid observation the writ petition is disposed off.

(G. Anupama Chakravarthy, J)

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