

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 693 of 2024

Kundan Kumar S/o Late Suresh Prasad Singh, resident of village - Ram Nagar, P.O. - Ram Nagar, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, (Fisheries), Animal and Fisheries Resources Department, Government of Bihar, Vikash Bhawan Bailey Road, Patna.
2. Director of Fisheries, Government of Bihar, Directorate of Fisheries, Officers Hostel Block A, Bailey Road, Patna - 800001.
3. Deputy Director of Fisheries, Government of Bihar, Patna.
4. District Fisheries Officer-cum-Chief Executive Officer, Muzaffarpur.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Ajay Kr Singh No.1, Advocate
For the Respondent/s : Mr. Raj Kishore Roy (GP-18)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 03-12-2024

1. The present petition has been filed for commanding the respondents to pay subsidy amount to the tune of Rs.96,000 and Rs.20,00,000/- respectively to the petitioner inasmuch as the petitioner was allowed to construct a pond under the Mukhyamantri Matasya Palan Vikas Yojana, vide letter dated 16.11.2017, which was also constructed by the petitioner, nonetheless, out of the admitted amount of subsidy to be paid to the petitioner, only a sum of Rs.1,50,000/- and a sum of Rs.54,000/- respectively have been paid to the petitioner till date



and moreover, despite the pond in question having been destroyed due to heavy rain and flood, which was then reconstructed by the petitioner, the total loss amount to the tune of Rs.20,00,000/- has also not been paid to the petitioner.

2. The brief facts of the case according to the petitioner are that the petitioner was allowed to construct a pond under the Mukhyamantri Matasya Palan Vikas Yojana, vide letter dated 16.11.2017, whereafter the petitioner had constructed and reconstructed the pond but the subsidy amount has not been paid till date. Thereafter, the petitioner had approached this Court by filing a writ petition bearing CWJC No.17961 of 2022 and this Court by an order dated 26.06.2023 had granted liberty to the petitioner to approach the respondent-authorities for redressal of his aforesaid grievances, however, the respondent-authorities have rejected the claim of the petitioner vide letter dated 25.08.2023 on non-est grounds.

3. Per contra, the learned counsel for the respondent-State has submitted by referring to the counter affidavit filed in the present case that the petitioner had applied for construction of a rearing pond under the Mukhyamantri Matasya Palan Vikas Yojana, 2017-18, whereafter he was given work order vide memo dated 16.11.2017 for water area of 0.40 ha, unit cost



being Rs.6 lacs/ha for construction and Rs.1.50 lacs/ha being the cost for first year input with admissible subsidy amount being 50% of the unit cost for general category. Thus, the total unit cost totals upto Rs.7.50 lacs/ha and subsidy amount would be a sum of Rs.3.75 lacs/ha. Therefore, for 0.4 ha, the total subsidy amount totals upto Rs.1.50 lacs. In the present case, the petitioner constructed total water area of Rs.0.18 ha only, hence the subsidy amount works out to a sum of Rs.54,000/- ($0.18 \times 3 \text{ lacs} = 0.54 \text{ lacs}$), which has already been paid to the petitioner as per the measurement book. As far as the input subsidy amount @ 0.75 lacs/ha is concerned, the same was not given to the petitioner since he did not submit any voucher.

4. The learned counsel for the respondent-State has further submitted that the present case is a stale matter inasmuch as the same pertains to the financial year 2017-18. As regards the claim of the petitioner for grant of compensation for renovation of the pond and for damage to the fishes, to the tune of Rs.20 lacs, it has been stated that, no amount has been deposited with the department on the head of insurance of the same and moreover, there is no provision for reimbursement of claim regarding renovation of pond or on the head of damage of fishes, hence the said claim of the petitioner is frivolous and not



maintainable in the eyes of law.

5. The learned counsel for the respondents has next contended that the petitioner had earlier made a complaint to the Prime Minister Office, New Delhi vide application dated 17.01.2019, leading to an inquiry being conducted by the Director, Fisheries, Bihar, Patna, whereafter inquiry report was submitted, vide letter dated 19.6.2019, wherein it was mentioned that the permissible subsidy amount has already been paid to the petitioner, hence the said complaint of the petitioner was not entertained. The petitioner had again filed a case before the District Public Grievance Redressal Office, Muzaffarpur in the month of April, 2019, however, the same was also rejected on the basis of the report submitted by the District Fisheries Officer, Muzaffarpur.

6. I have heard the learned counsel for the parties and perused the materials on record from which this Court finds that vide letter dated 16.11.2017, the petitioner was given a work order for construction of rearing pond over 0.40 ha water area under the Mukhyamantri Matsya Palan Vikas Yojana and as per the scheme, upon completion of the rearing pond over 0.40 ha water area, subsidy amount to the tune of Rs.1.50 lacs was payable to the petitioner, however, the petitioner constructed the



rearing pond over 0.18 ha water area only, hence a sum of Rs.54,000/- was payable by way of subsidy, which was paid to the petitioner by means of RTGS. This Court further finds that the petitioner has failed to submit any proof regarding pisciculture/rearing of fish much less any proof regarding the quantity of fish produced by him. As far as payment of compensation for re-construction of the pond damaged on account of rain and flood as also for damage of fishes, is concerned, this Court finds that there is no scheme much less any insurance scheme existing in the respondent department and in fact the petitioner has also not brought on record any scheme to the said effect. Thus, this Court finds that the petitioner has already been paid the admissible subsidy amount as per his entitlement and as far as claim for damages is concerned, neither any scheme for granting compensation on the head of reconstruction of the alleged damaged pond or pertaining to damage of fishes exist in the respondent department nor any insurance scheme is in vogue, apart from the fact that the petitioner has miserably failed to show any proof of deposit of insurance premium with the respondent-State department, hence the claim of the petitioner is devoid of any merit. Another aspect of the matter is that disputed question of facts cannot be



adjudicated in a writ petition under Article 226 of the Constitution of India. Reference in this regard be had to the judgments rendered by the Hon’ble Supreme Court of India in the following cases:-

- (i) **Chairman, Grid Corporation of Orissa Ltd. vs. Smt. Sukamani Das**, reported in 1999 (7) SCC 298,
- (ii) **Babubhai Muljibhai Patel vs. Nandlal Khodidas Barot and Ors.**, reported in 1974 (2) SCC 706,
- (iii) **Shubhas Jain Vs. Rajeshwari Shivam & Ors.**, reported in 2021 (20) SCC 454,
- (iv) **Union of India & Ors. Vs. Puna Hinda**, reported in 2021 (10) SCC 690.

7. Having regard to the facts and circumstances of the case and for the forgoing reasons, I do not find any merit in the present writ petition, hence the same stands dismissed.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
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