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26.02.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 10353 of 2023

Subhrajit Ganguly & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Baidurya Ghosal
... for the petitioners

Mr. Shamim Ul Bari,
Mr. Sayan Datta
...for the State

1. Learned counsel for the petitioners submits that the petitioners are seed growers and come within the purview of a subsidy scheme floated by the State Government dated October 28, 2016. However, although the Seed Certification documents were produced by the petitioners, the respondent-authorities are insisting upon production of land documents, parchas, etc. at the time of disbursing the amount due under the Scheme.

2. Learned counsel appearing for the State places reliance on a set of Guidelines dated July 27, 2022. In Item No. 5 under heading 'A' thereof, it is stated that application for registration should be supported by the land documents particularly in case of newly notified crop varieties.

3. Heard learned counsel for the parties.

4. A conjoint reading of the original scheme under which the petitioners have already grown seeds, along with the Guidelines of 2022, indicates that the clause sought to be relied on by the State has to be construed as directory.

5. The guidelines have been formulated within the purview of the main scheme and cannot defeat the main purpose of the subsidy scheme. That apart, it is settled law that guidelines framed under a particular scheme cannot traverse the boundaries of the parent scheme itself.

6. The specific language of the Scheme dated October 28, 2016 is that the farmers, for getting benefit under the said Scheme, will have to provide the copy of their land particulars, such as, deed, *parcha*, *khajna* receipts, etc.; “otherwise”, they may produce the certificate of cultivation from the Assistant Director of Agriculture of the respective block.

7. Thus, the plain language of the said subsidy scheme admits of no other interpretation than the production of land documents being alternative with the production of certificate of cultivation.

8. Such very purpose has to be kept in the background while construing the provisions of the 2022 Guidelines. In any event, Item No. 5 under

the heading A of the said guidelines stipulates that application for registration “should be” supported by land documents, which is somewhat ambiguous and may be construed either as mandatory or directory.

9. In the light of the provisions of the parent scheme, there cannot be any manner of doubt that Item 5 has to be read as directory.

10. Hence, since the present petitioners have produced their Certificate of Cultivation, they are entitled to the subsidy under the Scheme without production of any land document.

11. In view of the above observations, W.P.A. No. 10353 of 2023 is allowed on contest, thereby directing the respondent-authorities to disburse the amount due to the petitioners under the Subsidy Scheme annexed at page 49 of the writ petition at the earliest, preferably within a month from date.

12. There will be no order as to costs.

13. Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)