



W.A.Nos.1715 and 1716 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 18.03.2024

DELIVERED ON : 20.03.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.Nos.1715 and 1716 of 2023

Midas Orchid,
rep. by its Proprietor
#94, 3rd E cross, 2nd Block,
3rd Stage, Basveswar Nagar,
Bangalore, Karnataka-560 079

.. Appellant in
W.A.No.1715 of 2023

Indu International,
rep. by Proprietor,
94, 3rd E cross, 2nd Block,
3rd Stage, Basveswar Nagar,
Bangalore, Karnataka-560 079

.. Appellant in
W.A.No.1716 of 2023

Vs

1.The Deputy Director,
The National Horticulture Board,
Ministry of Agriculture & Farmers Welfare,
Government of India,
Plot No.85, Institutional Area
Sector 18, Gurugram 122-15.



W.A.Nos.1715 and 1716 of 2023

2.The Deputy Director,
National Horticulture Board,
Module No.37, 2nd Floor,
SIDCO Redymade Garment Complex,
Guindy, Chennai-600 032.

3.The Chief Manager,
Karnataka Bank,
Nehru Nagar Branch,
Bangalore-575 002.

.. Respondents in
both WAs

Prayer : Appeals filed under Clause 15 of the Letters Patent against the common order dated 16.6.2023 passed in W.P.Nos.29804 and 29807 of 2019.

For the Appellants : Ms.L.Maithili

For the Respondents : Ms.Rathidevi
for M/s.Rathidevi Associates
for respondents 1 and 2

: Mr.A.Rahul
for M/s.V.Kamalakumar
for respondent No.3

COMMON JUDGMENT

THE CHIEF JUSTICE

We have heard Ms.L.Maithili, learned counsel for the appellants; Ms.Rathidevi, learned counsel for M/s.Rathidevi



W.A.Nos.1715 and 1716 of 2023

Associates, learned counsel for respondents 1 and 2; and, Mr.A.Rahul, learned counsel for M/s.V.Kamalakumar, learned counsel for the third respondent.

2. The present appellants/original writ petitioners have filed the writ petitions challenging the communication rejecting the request of the appellants for grant of the entire subsidy amount. The writ petitions filed by the appellants were dismissed. Aggrieved thereby, the present writ appeals.

3. The appellants are engaged in the cultivation of Orchids. Subsidy is provided by the Government to the said project. The appellants submitted a detailed project report. The applications of the appellants were approved for subsidy cover to tune of 50% of the project cost, which was capped at Rs.112 lakh. A sum of Rs.56 lakh was released for payment to the appellants on completion of the project in accordance with the Detailed Project Report. A joint inspection was conducted by the members of the



W.A.Nos.1715 and 1716 of 2023

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first respondent along with the appellants and the third respondent. The joint inspection team accepted the project cost shown by the appellants and opined that the project was in consonance with the Detailed Project Report and recommended for grant of subsidy as per the National Horticulture Board (NHB) guidelines. However, subsequently, the same was reduced by the first respondent on the ground that the shade net structure was not made out of the material prescribed in the project report. The Grievance Redressal Committee directed refund of excess subsidy to the tune of Rs.14.5 lakh against the appellants. The learned Single Judge did not accept the contention of the appellants and rejected the same. Aggrieved thereby, the present appeals.

4. Learned counsel for the appellants submits that the first joint inspection report specifically clarifies the eligible subsidy of Rs.56 lakh. The said inspection report was issued after physical inspection of the site. There was no reason to tamper with the



W.A.Nos.1715 and 1716 of 2023

said inspection report.

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5. Learned counsel for the first respondent submits that the appellants constructed the shade net i.e. tubular structure in cement concrete, whereas the same had to be in tubular steel pipes. In view of that, the appellants were not entitled for the grant of subsidy as claimed.

6. The learned counsel further submits that the cost of construction is minimal and that the construction material should conform to the prescribed standards and should include materials, which would be utilised for green houses and shade net houses. The operational guidelines for NHB effective 1.4.2014 reveals that for green house structures, the materials used shall be tubular, wooden, bamboo and equally for shade net houses, similar materials have been directed to be used. The said aspect has been rightly considered by the learned Single Judge.



W.A.Nos.1715 and 1716 of 2023

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7. We have considered the submissions canvassed by learned counsel for the parties. We have perused the judgment delivered by the learned Single Judge.

8. It appears that the only reason mentioned for rejection of the claim of the appellants for entire subsidy of Rs.56 lakh and sanctioning only Rs.41 lakh and odd is that while constructing the tubular structure for shade net house, the appellants have done it with cement concrete and not with steel pipes. The scheme nowhere prescribes that the construction should be made by using tubular steel pipes. No such clause is pointed out. It is not the case that the appellants have not completed the entire project. The first joint inspection report very clearly shows about the work done. No details are given as to how the eligible project cost is worked out at Rs.83.45 lakh and not Rs.112 lakh, as was approved by the first joint inspection committee. No reasons are spelt out. The recommendation of the authority while reducing



W.A.Nos.1715 and 1716 of 2023

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the subsidy amount to Rs.41.725 lakh is that the appellants have constructed shade net with concrete pillar instead of tubular steel pipe and hence the authority recommends to consider cost of shed net as per the old cost at the rate of Rs.250/- per square meter instead of 50% of the cost for about 2500 square meter. The said reasoning is without any basis. There is nothing in the scheme to remotely suggest that the shade net has to be in tubular steel pipe instead of cement concrete pillar. The same is not borne out from any of the correspondence or the scheme.

9. This Court, certainly, may not sit in appeal over the decision of the authorities. However, if the said decision is not substantiated with any document or the scheme itself, then the same cannot be justified. The decision would be arbitrary and the arbitrary decision cannot be upheld.

10. In the light of that, the impugned communication of respondents 1 and 2 and the judgment of the learned Single



W.A.Nos.1715 and 1716 of 2023

Judge are quashed and set aside. The remaining amount of subsidy is with the third respondent bank. The same shall be released to the appellants.

11. The writ appeals, accordingly, are allowed. There shall be no order as to costs. Consequently, C.M.P.Nos.15181, 15184, 15187 and 15188 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

20.03.2024

Index : No
Neutral Citation : No
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W.A.Nos.1715 and 1716 of 2023

To

WEB COPY

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W.A.Nos.1715 and 1716 of 2023

THE HON'BLE CHIEF JUSTICE
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W.A.Nos.1715 and 1716 of 2023

20.03.2024