



2024:DHC:1037



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 6th FEBRUARY, 2024

IN THE MATTER OF:

+ **W.P.(C) 4879/2021**

CRPL INFRA PRIVATE LIMITED & ANR.

..... Petitioners

Through: Mr. Karthik Sundar and Mr. Digvijay Singh, Advocates.

versus

MINISTRY OF FOOD PROCESSING INDUSTRIES

..... Respondent

Through: Mr. Ravi Prakash, CGSC with Mr. Varun Agarwal and Ms. Astu Khandelwal, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Petitioner has approached this Court for a direction to the Respondent to set aside the decision dated 08.11.2019 taken by the Technical Committee of the Respondent herein rejecting the claim of the Petitioner for release of subsidy amounting to Rs. 4.36 crores.
2. The Petitioner is a cold chain solution provider and offers integrated cold chain and preservation infrastructure facilities from the farm gate to the consumer. It is stated that services of the Petitioner cover the creation of the infrastructure facility along with the entire supply chain, namely, pre-cooling, weighing, sorting, grading, multi product/multi temperature cold storage packing facility, IQF, blast freezing and reefer vans, mobile cooling units for facilitating storage & distribution of horticulture, organic produce,



marine, dairy, meat and poultry etc. It is stated that during the year 2016, a Centrally Sponsored Scheme called Pradhan Mantri Kisan Sampada Yojana (*hereinafter referred to as 'the PMKSY'*) was launched by the Respondent herein for creation of food processing and preservation capacities and for the modernisation/expansion of existing food processing units with the aim of increasing the level of food processing, reduction of wastage and enhancing the income of the farmers. It is stated that the last date of submission of Expression of Interest (EOI) was 15.06.2018, however, the last date of submission of the EOI was extended four times and the EOI was to be submitted on or before 30.06.2019.

3. It is stated that the Petitioner submitted its EOI through online mode on 28.02.2019. It is pertinent to mention here that even though the Petitioner submitted its EOI on 28.02.2019, the Petitioner had already approached various banks for securing a loan, and Punjab National Bank, vide letter dated 21.01.2019, accepted the loan application of the Petitioner. The proposal of the Petitioner was considered by the Technical Committee of the Respondent herein in a meeting held on 12.03.2019. The Technical Committee of the Respondent found that the proposal given by the Petitioner met the eligibility criterion and the Petitioner's unit was awarded a score of 88 out of 100, which is more than the minimum eligibility score of 60. The Recommendation of the Technical Committee of the Respondent herein reads as under:

“Based on the PMA appraisal, presentation and submission of documents by the applicant, TC found that the proposal is meeting the eligibility criteria of scheme guidelines with score of 88. However, the



location of the project is outside the Mega Food Parks and Agro Processing Clusters but a Designated Food Park, applicant has already availed grants-in-aid for the same project under cold chain scheme. Inspection of unit by PMA is necessary for TC to make recommendation as it's a case of expansion.”

4. The Recommendation of the Technical Committee of the Respondent herein was considered by the Inter-Ministerial Approval Committee (*hereinafter referred to as 'the IMAC'*) in its meeting held on 20.06.2019. The IMAC decided to refer the matter back to the Technical Committee for re-evaluation/appraisal keeping in view the expenditure already incurred by the promoter and for a pre-inspection of the unit due to the application being one of expansion of a unit. In compliance with the directions of the IMAC, the proposal of the Petitioner herein was once again considered by the Technical Committee of the Respondent in its meeting held on 18.07.2019 after the site of the Petitioner was visited by the Project Management Agency (*hereinafter referred to as 'PMA'*). The case of the Petitioner was considered on 08.11.2019 and the Technical Committee of the Respondent recommended that the proposal of the Petitioner is ineligible for the benefit of the Scheme. The Recommendation of the Technical Committee reads as under:

“Based on the PMA appraisal, presentation and submission of documents by the applicant, To recommended the proposal for consideration of IMAC as ineligible as the applicant has incurred about Rs. 12 Cr. (about half of the project cost) prior to date of submission of online application and an expenditure of about Rs. 17 Cr. till the date of TC i.e. 08.11.2019. The project is nearing completion. TC was of the view that a further site inspection from PMA is not required”



5. The said recommendation was placed before the IMAC on 20.11.2019 and in accordance with the decision of the Technical Committee, the Petitioner herein was declared as ineligible for the benefit under the scheme as the Petitioner had incurred more than half of the cost prior to the submission of the project when the project was nearing completion.
6. The Petitioner has challenged the recommendation of the Technical Committee of the Respondent dated 08.11.2019 before this Court on the ground that the decision is contrary to the scheme.
7. A perusal of the material on record discloses that the total cost of the project was 25.72 crores and the Bank had sanctioned a fresh term loan of Rs.15.5 crores.
8. It is contended in the Writ Petition that the Petitioner is entitled to the benefit of the Scheme as the Petitioner meets all the parameters for being declared eligible for the Scheme and the rejection for the same on the ground that the Petitioner has spent the money before filing the application is arbitrary.
9. Notice in the present Writ Petition was issued on 20.04.2021. Reply has been filed.
10. It is stated by the Respondent that Clause 11.1(b) of the Modified Operation guidelines dated 29.11.2018 categorically states that the eligible expenditure for release of installments of grants-in-aid under the said Scheme shall be considered from the period between the date of submission of the expression of interest till the approval of such grant-in-aid. It is stated that the Petitioner submitted their EOI on 18.02.2019, however, the expenditure has been incurred by the Petitioner prior to filing of their EOI



and, therefore, the same will not be considered under the Scheme. It is further stated in the reply that no right of the Petitioner has been taken away. Clause 11.3(ii) of the Guidelines states that the decision of the Ministry in all matters relating to eligibility, acceptance or rejection of the applications, mode of selection, grant approved and imposition of penalty shall be final and binding on the applicant. The Guidelines also provides that a mere submission of the application along with required documents against the expression of interest does not confer any right in favour of the applicant for receiving the grant-in-aid under the Scheme. He submits that the Guidelines are a part of the policy decision taken by the Government and as to how the amount should be disbursed and Writ Courts should desist from interfering with policy matters.

11. It is contended by the learned Counsel for the Petitioner that the Respondent invited applications from various promoters willing to setup food processing units in Mega Food Parks and Agro Processing Clusters notified by the Ministry and the promoters who are interested to set up food processing units were entitled to financial assistance in the form of grant-in-aid under the scheme. A PMA had been given the task of evaluating the projects, conduct inspection and submit reports before the Technical Committee of the Respondent. The Technical Committee, after evaluating the project of the Petitioner, awarded 88 points out of 100 to the unit of the Petitioner. It is stated by the learned Counsel for the Petitioner that the Petitioner has scored more points than some promoters who have been given the benefit under the Scheme. He states that the Petitioner was under the assumption that he was eligible for the Scheme and had spent money to set up the unit and the Respondent cannot back out from the promise given to



the entrepreneurs at this juncture. He states that the fact that the Petitioner has spent money even before he applied for the Scheme would not disentitle the Petitioner from availing the benefits of the Scheme.

12. *Per contra*, learned Counsel for the Respondent has drawn the attention of this Court to the guidelines and states that the guidelines clearly prohibit disbursement of expenditure incurred before applying under the Scheme.

13. Heard the Counsel for the parties and perused the material on record.

14. The short question which, therefore, arises for consideration is whether the rejection of the case of the Petitioner by the Respondent, as upheld by the IMAC, requires interference by this Court under Article 226 of the Constitution of India or not. The Petitioner has invoked the principles of legitimate expectation and promissory estoppels.

15. Admittedly, the Petitioner filed the application expressing interest in the Scheme (EOI) on 28.02.2019. It cannot be said that the application of the Petitioner was to be accepted on the same day of the application and that by virtue of submitting the EOI, a right had been accrued in favour of the Petitioner. It is well settled that the right to get aid is not a fundamental right. Respondents brought out the Modified Operation Guidelines inviting applications from promoters willing to setup food processing units in Mega Food Parks and Agro Processing Clusters on 29.10.2018. The Petitioner gave its Expression of Interest (EOI) on 28.02.2019. Clause 11.1 (B) of the Revised Operational Guidelines for implementation of Scheme for Creation/Expansion of Food Processing and Preservation Capacities, which is relevant for the present case, reads as under:



*“B) The expenditure made by the applicant on the eligible project cost in between Expression of Interest (EOI) and date of issue of approval letter will be considered as eligible expenditure for release of installment of grants-in-aid. Such expenditure shall be verifiable from the bank account statement of the applicant firm and also with bills Invoices generated to meet the expenditure as per the scheme guidelines. **However, the expenditure made / incurred before EOI will not be considered.**”(emphasis supplied)*

16. The Technical Committee has evaluated the Petitioner and the Petitioner has scored 88 points out of 100. The case of the Petitioner was put up before the Inter-Ministerial Approval Committee and the said Committee referred the proposal of the Petitioner for re-evaluation on the ground that substantial amount has been incurred by the Petitioner prior to the Petitioner's applying under the Scheme and the case of the Petitioner was one of expansion. The Technical Committee once again evaluated the case of the Petitioner. The Petitioner scored 84 points out of 100, which is more than the minimum threshold of 60 points. However, the Technical Committee was of the opinion that the Petitioner is ineligible for the Scheme as it has incurred about half of the project cost prior to its application under the scheme. The Inter-Ministerial Approval Committee accepted the recommendation of the Technical Committee that the Petitioner is not eligible for the Scheme.

17. The law of legitimate expectation has been crystallized by the Apex Court in several judgments. It has been held that for a legitimate expectation to arise, the decision of the authority must affect such person by (a) altering rights or obligations of that person which are enforceable by or against him in private law, or (b) depriving him of some benefit or advantage which he



has conferred upon him in the past by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until some rational ground for withdrawing the benefit has been communicated to him and he has been given an opportunity to comment thereon, or he has received assurance from the decision-maker that the benefit will not be withdrawn without giving him an opportunity of advancing reasons for contending that they should not be withdrawn. The Apex Court in Sethi Auto Service Station v. DDA, (2009) 1 SCC 180, has explained the concept of legitimate expectation as under:

“24. The protection of legitimate expectations, as pointed out in De Smith's Judicial Review (6th Edn.), (Para 12-001), is at the root of the constitutional principle of the rule of law, which requires regularity, predictability and certainty in the Government's dealings with the public. The doctrine of legitimate expectation and its impact in the administrative law has been considered by this Court in a catena of decisions but for the sake of brevity we do not propose to refer to all these cases. Nevertheless, in order to appreciate the concept, we shall refer to a few decisions.

25. At this juncture, we deem it necessary to refer to a decision by the House of Lords in Council of Civil Service Unions v. Minister for Civil Service [1985 AC 374 : (1984) 3 WLR 1174 : (1984) 3 All ER 935 (HL)], a locus classicus on the subject, wherein for the first time an attempt was made to give a comprehensive definition to the principle of legitimate expectation. Enunciating the basic principles relating to legitimate expectation, Lord Diplock observed that for a legitimate expectation to arise, the decision of the administrative authority must affect such person either (a) by altering rights or obligations of that



person which are enforceable by or against him in private law, or (b) by depriving him of some benefit or advantage which either: (i) he has in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until some rational ground for withdrawing it has been communicated to him and he has been given an opportunity to comment thereon, or (ii) he has received assurance from the decision-maker that they will not be withdrawn without first giving him an opportunity of advancing reasons for contending that they should be withdrawn.

26. In *Attorney General of Hong Kong v. Ng Yuen Shiu* [(1983) 2 AC 629 : (1983) 2 WLR 735 : (1983) 2 All ER 346 (PC)] , a leading case on the subject, Lord Fraser said: (All ER p. 351g-h)

“... when a public authority has promised to follow a certain procedure, it is in the interest of good administration that it should act fairly and should implement its promise, so long as implementation does not interfere with its statutory duty.”

27. Explaining the nature and scope of the doctrine of legitimate expectation, in *Food Corporation of India v. Kamdhenu Cattle Feed Industries* [(1993) 1 SCC 71] , a three-Judge Bench of this Court had observed thus: (SCC p. 76, para 8)

“8. The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule



of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process. Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent.”

28. The concept of legitimate expectation again came up for consideration in Union of India v. Hindustan Development Corpn. [(1993) 3 SCC 499] Referring to a large number of foreign and Indian decisions, including in Council of Civil Service Unions [1985 AC 374 : (1984) 3 WLR 1174 : (1984) 3 All ER 935 (HL)] and Kamdhenu Cattle Feed Industries [(1993) 1 SCC 71] and elaborately explaining the concept of legitimate expectation, it was observed as under: (Hindustan Development Corpn. case [(1993) 3 SCC 499] , SCC p. 549, para 35)

“35. ... If a denial of legitimate expectation in a given case amounts to denial of right guaranteed or is arbitrary, discriminatory, unfair or biased, gross abuse of power or violation of principles of natural justice, the same can be questioned on the well-known grounds attracting Article 14 but a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles. It can be one of



the grounds to consider but the court must lift the veil and see whether the decision is violative of these principles warranting interference. It depends very much on the facts and the recognised general principles of administrative law applicable to such facts and the concept of legitimate expectation which is the latest recruit to a long list of concepts fashioned by the courts for the review of administrative action, must be restricted to the general legal limitations applicable and binding the manner of the future exercise of administrative power in a particular case. It follows that the concept of legitimate expectation is 'not the key which unlocks the treasury of natural justice and it ought not to unlock the gates which shuts the court out of review on the merits', particularly when the element of speculation and uncertainty is inherent in that very concept."

Taking note of the observations of the Australian High Court in Attorney General for New South Wales v. Quinn [(1990) 64 Aust LJR 327 : (1990) 170 CLR 1] that "to strike down the exercise of administrative power solely on the ground of avoiding the disappointment of the legitimate expectations of an individual would be to set the courts adrift on a featureless sea of pragmatism", speaking for the Bench, K. Jayachandra Reddy, J. said that there are stronger reasons as to why the legitimate expectation should not be substantively protected than the reasons as to why it should be protected. The caution sounded in the said Australian case that the courts should restrain themselves and restrict such claims duly to the legal limitations was also endorsed.

29. Then again in National Buildings Construction Corpn. v. S. Raghunathan [(1998) 7 SCC 66 : 1998



SCC (L&S) 1770] , a three-Judge Bench of this Court observed as under: (SCC p. 75, para 18)

“18. The doctrine of ‘legitimate expectation’ has its genesis in the field of administrative law. The Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without any iota of abuse of discretion. The policy statements cannot be disregarded unfairly or applied selectively. Unfairness in the form of unreasonableness is akin to violation of natural justice. It was in this context that the doctrine of ‘legitimate expectation’ was evolved which has today become a source of substantive as well as procedural rights. But claims based on ‘legitimate expectation’ have been held to require reliance on representations and resulting detriment to the claimant in the same way as claims based on promissory estoppel.”

30. This Court in Punjab Communications Ltd. v. Union of India [(1999) 4 SCC 727] , referring to a large number of authorities on the question, observed that a change in policy can defeat a substantive legitimate expectation if it can be justified on “Wednesbury” reasonableness. The decision-maker has the choice in the balancing of the pros and cons relevant to the change in policy. Therefore, the choice of the policy is for the decision-maker and not for the court. The legitimate substantive expectation merely permits the court to find out if the change in policy which is the cause for defeating the legitimate expectation is irrational or perverse or one which no reasonable person could have made. (Also see Bannari Amman Sugars Ltd. v. CTO [(2005) 1 SCC 625] .)

31. Very recently in Jitendra Kumar v. State of



Haryana [(2008) 2 SCC 161 : (2008) 1 SCC (L&S) 428] it has been reiterated that a legitimate expectation is not the same thing as an anticipation. It is distinct and different from a desire and hope. It is based on a right. It is grounded in the rule of law as requiring regularity, predictability and certainty in the Government's dealings with the public and the doctrine of legitimate expectation operates both in procedural and substantive matters.

32. An examination of the aforementioned few decisions shows that the golden thread running through all these decisions is that a case for applicability of the doctrine of legitimate expectation, now accepted in the subjective sense as part of our legal jurisprudence, arises when an administrative body by reason of a representation or by past practice or conduct aroused an expectation which it would be within its powers to fulfil unless some overriding public interest comes in the way. However, a person who bases his claim on the doctrine of legitimate expectation, in the first instance, has to satisfy that he has relied on the said representation and the denial of that expectation has worked to his detriment. The Court could interfere only if the decision taken by the authority was found to be arbitrary, unreasonable or in gross abuse of power or in violation of principles of natural justice and not taken in public interest. But a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles.

33. It is well settled that the concept of legitimate expectation has no role to play where the State action is as a public policy or in the public interest unless the action taken amounts to an abuse of power. The court must not usurp the discretion of the public authority which is empowered to take the decisions under law and the court is expected to apply an



objective standard which leaves to the deciding authority the full range of choice which the legislature is presumed to have intended. Even in a case where the decision is left entirely to the discretion of the deciding authority without any such legal bounds and if the decision is taken fairly and objectively, the court will not interfere on the ground of procedural fairness to a person whose interest based on legitimate expectation might be affected. Therefore, a legitimate expectation can at the most be one of the grounds which may give rise to judicial review but the granting of relief is very much limited. (Vide Hindustan Development Corpn. [(1993) 3 SCC 499])”

(emphasis supplied)

18. Applying the said principles to the facts of the present case, the case of the Petitioner that it had a legitimate expectation of being granted the benefit cannot be accepted because of the stipulation in the guidelines that the expenditure incurred before the submission of the expression of interest will not be considered. Further, the project was nearing completion at the time when the Technical Committee examined the case of the Petitioner. As stated earlier, no right had been created upon the submission of the expression of interest and the Petitioner, therefore, could not as a matter of right demand that the Technical Committee must accept the case of the Petitioner. Admittedly, the Petitioner has spent substantial amount of money even before giving its expression of interest which is contrary to the Guidelines.

19. The fact that the Petitioner has already spent money would not create any right on the Petitioner to claim that amount from the State. It is also well settled that High Courts while exercising its jurisdiction under Article 226 of



the Constitution of India do not interfere with the decisions of various authorities but only adjudicate on the decision making process. The Petitioner has been given an opportunity to present its case before the Technical Committee and the IMAC. The Petitioner has put forward his case and a decision has been passed. It cannot be said that the decision arrived at by the Government is so perverse that it requires interference by this Court.

20. Interference of High Courts in administrative decisions has been well crystallized by the Apex Court in a number of Judgments. In Tata Cellular v. Union of India, (1994) 6 SCC 651, the Apex Court has held as under:

“70. It cannot be denied that the principles of judicial review would apply to the exercise of contractual powers by Government bodies in order to prevent arbitrariness or favouritism. However, it must be clearly stated that there are inherent limitations in exercise of that power of judicial review. Government is the guardian of the finances of the State. It is expected to protect the financial interest of the State. The right to refuse the lowest or any other tender is always available to the Government. But, the principles laid down in Article 14 of the Constitution have to be kept in view while accepting or refusing a tender. There can be no question of infringement of Article 14 if the Government tries to get the best person or the best quotation. The right to choose cannot be considered to be an arbitrary power. Of course, if the said power is exercised for any collateral purpose the exercise of that power will be struck down.

71. Judicial quest in administrative matters has been to find the right balance between the administrative discretion to decide matters whether contractual or political in nature or issues of social policy; thus they are not essentially justiciable and the need to remedy any unfairness. Such an unfairness is set right by



judicial review.

72. Lord Scarman in Nottinghamshire County Council v. Secretary of State for the Environment [1986 AC 240, 251 : (1986) 1 All ER 199] proclaimed:

“ ‘Judicial review’ is a great weapon in the hands of the judges; but the judges must observe the constitutional limits set by our parliamentary system upon the exercise of this beneficial power.”

Commenting upon this Michael Supperstone and James Goudie in their work Judicial Review (1992 Edn.) at p. 16 say:

“If anyone were prompted to dismiss this sage warning as a mere obiter dictum from the most radical member of the higher judiciary of recent times, and therefore to be treated as an idiosyncratic aberration, it has received the endorsement of the Law Lords generally. The words of Lord Scarman were echoed by Lord Bridge of Harwich, speaking on behalf of the Board when reversing an interventionist decision of the New Zealand Court of Appeal in Butcher v. Petrocorp Exploration Ltd. 18-3-1991.”

73. Observance of judicial restraint is currently the mood in England. The judicial power of review is exercised to rein in any unbridled executive functioning. The restraint has two contemporary manifestations. One is the ambit of judicial intervention; the other covers the scope of the court's ability to quash an administrative decision on its merits. These restraints bear the hallmarks of judicial control over administrative action.

74. Judicial review is concerned with reviewing not the



merits of the decision in support of which the application for judicial review is made, but the decision-making process itself.

75. In Chief Constable of the North Wales Police v. Evans [(1982) 3 All ER 141, 154] Lord Brightman said:

“Judicial review, as the words imply, is not an appeal from a decision, but a review of the manner in which the decision was made.

Judicial review is concerned, not with the decision, but with the decision-making process. Unless that restriction on the power of the court is observed, the court will in my view, under the guise of preventing the abuse of power, be itself guilty of usurping power.”

In the same case Lord Hailsham commented on the purpose of the remedy by way of judicial review under RSC, Ord. 53 in the following terms:

“This remedy, vastly increased in extent, and rendered, over a long period in recent years, of infinitely more convenient access than that provided by the old prerogative writs and actions for a declaration, is intended to protect the individual against the abuse of power by a wide range of authorities, judicial, quasi-judicial, and, as would originally have been thought when I first practised at the Bar, administrative. It is not intended to take away from those authorities the powers and discretions properly vested in them by law and to substitute the courts as the bodies making the decisions. It is intended to see that the relevant authorities use their powers in a proper



manner (p. 1160).”

In R. v. Panel on Take-overs and Mergers, ex p Datafin plc [(1987) 1 All ER 564] , Sir John Donaldson, M.R. commented:

“An application for judicial review is not an appeal.”

In Lonrho plc v. Secretary of State for Trade and Industry [(1989) 2 All ER 609] , Lord Keith said:

“Judicial review is a protection and not a weapon.”

It is thus different from an appeal. When hearing an appeal the Court is concerned with the merits of the decision under appeal. In Amin, Re [Amin v. Entry Clearance Officer, (1983) 2 All ER 864] , Lord Fraser observed that:

“Judicial review is concerned not with the merits of a decision but with the manner in which the decision was made.... Judicial review is entirely different from an ordinary appeal. It is made effective by the court quashing the administrative decision without substituting its own decision, and is to be contrasted with an appeal where the appellate tribunal substitutes its own decision on the merits for that of the administrative officer.”

76. In R. v. Panel on Take-overs and Mergers, ex p Guinness plc [(1990) 1 QB 146 : (1989) 1 All ER 509] , Lord Donaldson, M.R. referred to the judicial review jurisdiction as being supervisory or ‘longstop’ jurisdiction. Unless that restriction on the power of the court is observed, the court will, under the guise of preventing the abuse of power, be itself guilty of usurping power.



77. The duty of the court is to confine itself to the question of legality. Its concern should be:

- 1. Whether a decision-making authority exceeded its powers?*
- 2. Committed an error of law,*
- 3. committed a breach of the rules of natural justice,*
- 4. reached a decision which no reasonable tribunal would have reached or,*
- 5. abused its powers.*

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

(i) Illegality : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.

(ii) Irrationality, namely, Wednesbury unreasonableness.

(iii) Procedural impropriety.

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in R. v. Secretary of State for the Home Department, ex Brind [(1991) 1 AC 696] , Lord Diplock refers specifically to one development, namely,



the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, “consider whether something has gone wrong of a nature and degree which requires its intervention”.

21. At this Juncture, it is apposite to extract Clauses 9(viii) and 11.3(ii) of the Guidelines. The same reads as under:

“9(viii) Mere submission of application with required documents against the EOI does not confer any right on the applicant for claim of grant in aid under the scheme. The grant in aid will be sanctioned based on merit, preference criteria and evaluation of the proposal as per the assessment criteria laid down in the guidelines of the scheme. Grant will be released subject to availability of funds under scheme to the approved projects as per merit order and preference as laid down herein.

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11.3(ii) The decision of the Ministry in all matters relating to eligibility, acceptance or rejection of the applications, mode of selection, grant approved and imposition of penalty shall be final and binding on the applicant.”

22. A perusal of the above Guidelines shows that mere filing of an application does not create any right in favour of the Petitioner. As rightly pointed out by the learned Counsel for the Respondent. Clause 11.1(B) of the Guidelines categorically states that the expenditure incurred prior to the expression of interest cannot be covered and expenditure incurred between the date of the expression of interest till the approval of grant in aid shall be considered. The finding of the Technical Committee that, the Petitioner is



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not eligible for grant under the scheme as the Petitioner has incurred about 12 crores prior to the date of submission of application i.e., half of the project cost, and expenditure of about 17 crores till the date of the meeting of the Technical Committee, and that application was made when the project was nearing completion, and therefore, the Petitioner is not eligible to get the benefit of the Scheme does not require any interference. The findings of the Technical Committee were based on the appraisal of the expert body as well as the presentation and submission made by the Petitioner. This Court is of the opinion that the decision making process is neither irrational nor unreasonable warranting interference under Article 226 of the Constitution of India.

23. In view of the above, this Court does not find any reason to interfere with the decision taken by the Technical Committee of the Respondent.

24. Accordingly, the Writ Petition is dismissed. Pending applications, if any, also stand dismissed.

SUBRAMONIUM PRASAD, J

FEBRUARY 06, 2024

Rahul