



WEB COPY



W.P.No.27994 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM

THE HONOURABLE Mr. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.27994 of 2024
and W.M.P.No.30549 of 2024

K.Hemalatha
Proprietor M/s.Lotus Knit Fab
No.17, H.P.A. Export Company
Kallampalayam
Tiruppur - 641 601.

.... Petitioner

Vs

The Industries Commissioner and
Director of Industries
Board of Industries and Commerce
2nd and 3rd Floor, SIDCO Corporate Building
Thiru.Vi.Ka. Industrial Estate
Guindy, Chennai - 600 032.

.... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the order dated 26.07.2024 in R.C.No.29600/NEEDS2/2019 passed by the respondent and quash the same as illegal, arbitrary and unlawful.

For Petitioner : Mr.G.Senthilkumar

For Respondent : Mr.N.Naveen Kumar
Government Advocate



W.P.No.27994 of 2024

ORDER

WEB COPY

This writ petition has been filed to quash the proceedings of the respondent dated 26.07.2024 in R.C.No.29600/NEEDS2/2019, which came to be issued, pursuant to the order of the Division Bench of this Court in W.A.No.3801 of 2019 dated 25.09.2023, preferred by the petitioner herein.

2.The short facts that may be necessary for the disposal of the present writ petition are as follows :

- a) The petitioner is a woman entrepreneur who had undertaken a project in the year 2019, to establish a knit manufacturing unit with an estimated cost of Rs.99.50 lakhs. She availed a credit facility of 69.50 lakhs under the NEEDS scheme from the Union Bank of India and the Government of Tamil Nadu also granted a subsidy of Rs.24.98 lakhs, based on the recommendations of District Industries Centre, Tiruppur (hereinafter referred to as 'DIC') for the said project.
- b) A triparte agreement was entered into between the petitioner, the Bank and DIC, wherein certain terms and conditions were enlisted. The Bank and DIC jointly inspected the unit, and first instalment of subsidy amount of Rs.12,43,750/- was released on 17.01.2018. The second



WEB COPY



W.P.No.27994 of 2024

inspection was held on 05.03.2018. Within five days thereafter, a fire accident occurred in the unit, owing to which, the entire unit was destroyed. This untoward incident was informed immediately to the Bank and DIC by the petitioner.

- c) On 20.07.2018, DIC sent a letter to the petitioner requiring her to commence production and submit the claims for 2nd / 3rd instalments within 10 days time or to face recovery action.
- d) The petitioner submitted a reply on 18.08.2018, intimating her inability to commence the production. Without considering the petitioner's request, a show cause notice was issued on 21.08.2018 by DIC, demanding recovery of first instalment of subsidy along with interest, alleging violation of Clause 13 of triparte condition.
- e) This show cause notice was challenged in an appeal before the respondent, but the appeal was rejected on 26.03.2019. Thereafter, the petitioner filed a review petition before the respondent, to review the order dated 26.03.2019, and that came to be dismissed on 17.06.2019.
- f) Left with no other remedy, the petitioner approached this Court in W.P.No.23658 of 2019, and the learned Single Judge dismissed the petition by order dated 13.08.2019, holding that the writ Court is not an



WEB COPY



W.P.No.27994 of 2024

appropriate forum, as the dispute appears to be civil in nature and that a suit in O.S.No.458 of 2018 filed by the petitioner, in connection with said dispute is also pending before the Principal District Court, Tiruppur,

- g) The dismissal order in W.P.No.23658 of 2019 was challenged in an appeal before a Division Bench of this Court in W.A.No.3801 of 2019, and that came to be allowed in part on 25.09.2023, directing the petitioner to submit a fresh representation to the respondent.
- h) Pursuant to the order in W.A.No.3801 of 2019, the petitioner had approached the respondent, who vide his proceedings dated 26.07.2024 in R.C.No.29600/NEEDS2/2019, rejected the claim of the petitioner and directed to recover the said sum from the beneficiary. Challenging the said proceedings of the respondent, the petitioner is before this Court.

3. It is also reiterated in the affidavit filed by the petitioner that the Principal District Court, Tiruppur had decreed the suit in O.S.No.458 of 2018 (now renumbered as COS.No.46 of 2022) against the Bank, holding that the Bank had failed to discharge its obligation, which resulted in causing huge loss to the petitioner. That apart, a Division Bench has also taken into account the



W.P.No.27994 of 2024

decree in COS.No.46 of 2022, while passing the judgment in W.A.No.3801 of 2019.

WEB COPY

4. The learned counsel appearing for the petitioner submitted that in the impugned order passed by the respondent dated 26.07.2024 in RC.No.29600/NEEDS2/2019, the judgment of the District Court in C.O.S.No.46 of 2022 dated 31.07.2022, was not taken into consideration and also the findings of the Division Bench which *inter alia* directed the respondent to reconsider the case of the petitioner in the light of the civil Court's findings. But the respondent, without considering the said aspects, passed the impugned proceedings directing the General Manager, District Industries Centre, Tiruppur, to initiate action against the petitioner and to recover the amount from the petitioner.

5. The learned Government Advocate appearing for the respondent has filed the counter affidavit dated 20.01.2025 and submitted that all the conditions and observations made by the Hon'ble Division Bench of this Court have been duly complied with. He further submitted that this Court directed the petitioner to make a fresh representation to the respondent and the



W.P.No.27994 of 2024

respondent shall pass orders after taking into consideration the observations of the civil Court order and after providing opportunity of personal hearing to the parties. He further submitted that the impugned order dated 26.07.2024 in R.C.No.29600/NEEDS2/2019 came to be passed only after affording personal hearing to the petitioner and after holding a detailed enquiry on the subject matter. The learned Government Advocate further submitted that the respondent in the writ petition is not a party to the civil court proceedings. He also submitted that even in the earlier litigation in W.P.No.23568 of 2019, the learned Single Judge has observed that the issue is purely civil in nature and the petitioner cannot abuse the writ jurisdiction to suit the needs of the petitioner.

6. It is also alleged in the counter affidavit that the petitioner, even prior to the filing of the earlier writ petition in W.P.No.23568 of 2019, had challenged the recovery order of DIC in an appeal before the respondent and that was dismissed. Subsequently, she filed a review petition to review the said dismissal order of the appeal, and this too was rejected by the respondent. Thereafter, the earlier writ petition in W.P.No.23658 of 2019 was filed by the petitioner and that was dismissed, against which, she preferred W.A.No.3801



W.P.No.27994 of 2024

of 2019, which came to be partly allowed with a direction to the petitioner to submit a fresh representation. It is pertinent to note that the recovery order has not been held ultravires and it is also relevant to mention that the petitioner in her letter dated 18.08.2018 has undertaken to protect the interest of the Government.

7. This Court heard Mr.G.Senthilkumar, learned counsel for the petitioner and Mr.N.Naveen Kumar, learned Government Advocate appearing for the respondent, and also perused the materials on record.

8. In the case on hand, the Division Bench of this Court by order dated 25.09.2023 in W.A.No.3801 of 2019 has observed as follows :

" 7. We find that the contentions that had been taken in support of the Writ petition by the appellant and also the contentions that have been taken up by the respondents before us and in the Writ petition have all been agitated before the competent Civil Court in COS.No 46 of 2022 on the file of the Principal District Judge, Tiruppur. No doubt the suit is only between the appellant and the Bank (4th and 5th respondents). However, the Principal District Judge has elaborately considered the very same contentious issues in



WEB COPY



W.P.No.27994 of 2024

the said suit and ultimately found that the Bank had failed to discharge its obligation which had resulted in the appellant suffering huge monetary losses. As rightly contended by the Counsel for the Bank, Mr.S.Sethuraman, the said judgement is subject to any appeal that may be filed by the Bank. However, be that as it may as on date there is a judgment of a competent Civil Court, that too rendered after an elaborate trial and touching the same issues that are also subject matter of this writ appeal.

8. Taking note of the subsequent event, namely, the decree passed in COS No.46 of 2022 on 31.07.2023, pending this writ appeal, we deem it fit to pass the following judgment:-

(i) The appellant shall make afresh representation to the 2nd respondent to reconsider the order impugned in the writ petition on the ground that the competent Civil Court has held that the appellant is not guilty of any breach, which was the main ground on which the impugned order directing refund came to be passed and also confirmed on an appeal.

(ii) On such representation being made by the appellant within 4 weeks from the date of receipt of a copy of this order, the 2nd respondent shall serve notice to the 4th and 5th Respondents along with a copy of the representation within 2 weeks thereafter, and

(iii) On such objections being furnished or filed by



WEB COPY



W.P.No.27994 of 2024

the Bank (4th and 5th Respondents), the 2nd respondent may afford a personal hearing to the appellant and bank officials and fix a date for enquiry regarding refund of subsidy. Such an enquiry shall be completed within a period of 8 weeks thereafter, following the due process of law and adhering to principles of natural justice."

9. The Division Bench in its judgment has relied on judgment of the civil Court in C.O.S. No.46/2022, where the Civil Court had held that the Bank has failed to discharge its obligation, which has resulted in the huge monetary loss to the petitioner, and that the petitioner is not guilty of breach.

10. In view of the above observations made by the Division Bench, this Court is of the opinion that the impugned order passed by the respondent dated 26.07.2024 in R.C.No.29600/NEEDS2/2019, is liable to be set aside and the same is set aside.

11. The respondent is directed to consider the matter afresh after taking into consideration the judgment passed by the civil Court in C.O.S.No.46 of 2022 dated 31.07.2023 and also the observation made by the Division Bench



W.P.No.27994 of 2024

of this Court in W.A.No.3801 of 2019 dated 25.09.2023, and pass a detailed order on merits and in accordance with law, after giving due notice to the petitioner, affording an opportunity of personal hearing and also upon considering the documents produced by the petitioner, within a period of three months from the date of receipt of a copy of this order.

12. The writ petition is disposed of with the above observation and direction. No costs. Consequently, connected miscellaneous petition is closed.

26.02.2025

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ds

To:

The Industries Commissioner and
Director of Industries
Board of Industries and Commerce
2nd and 3rd Floor, SIDCO Corporate Building
Thiru.Vi.Ka. Industrial Estate
Guindy, Chennai - 600 032.



WEB COPY



W.P.No.27994 of 2024

J.SATHYA NARAYANA PRASAD.,J.

ds

W.P.No.27994 of 2024

26.02.2025