



\$~2

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

%

Date of decision: 03.11.2025

+ **LPA 443/2024**

CRPL INFRA PRIVATE LIMITED & ANR.Appellants

Through: Mr.Sudhir Nandrajog, Sr.Adv. with
Mr.Kunal Madan and Mr.Manmay
Sarawagi, Advs.

versus

**MINISTRY OF FOOD PROCESSING INDUSTRIES,
GOVERNMENT OF INDIARespondent**

Through: Ms.Avshreya Pratap Singh Rudy,
CGSC with Ms.UshaJamnal,
Mr.Mohammad Junaid Mahmood and
Ms.Prajna Pandita, Advs for UOI.

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, CJ (ORAL)

-: FACTS:-

1. This intra-court appeal questions the judgment dated 06.02.2024 passed by the learned Single Judge, whereby W.P.(C) 4879/2021 instituted by the appellant/petitioner under Article 226 of the Constitution of India, has been dismissed.



At this juncture itself, we may note that by instituting the aforesaid writ petition, the appellant/petitioner had challenged the decision dated 08.11.2019 taken by the Technical Committee of the respondent, rejecting its claim for seeking benefit under the Scheme for Creation/Expansion of Food Processing and Preservation Capacities [hereinafter referred to as **“the Scheme”**] under Pradhan Mantri Kishan Sampada Yojna [hereinafter referred to as **“PMKSY”**].

2. Ministry of Food Processing Industries, Government of India, launched PMKSY and issued operational guidelines for the Scheme in the year 2016. The Scheme was launched with an objective to create processing and preservation capacities and modernisation/expansion of existing food processing units to help in increasing the level of processing, value addition, which would lead to reduction of wastage and enhancement of farmers' income. For the said purpose, operational guidelines were issued initially *vide* letter dated 13.12.2017, which were modified, and the modified operational guidelines were issued on 29.10.2018.

3. As per the guidelines of the Scheme, the Scheme envisaged financial assistance to food processing units in the form of grant-in-aid. According to the pattern of assistance under the guidelines as available in clause 6, financial assistance in the form of grant-in-aid was to be provided equal to 35% of eligible project cost subject to maximum of Rs. 5 crore in general areas and 50% of the eligible project cost subject to maximum of Rs. 5 crore in North-Eastern States including Sikkim and in difficult areas including Himalayan States (Himachal Pradesh, Jammu and Kashmir and Uttarakhand) and State notified ITDP areas and Islands. Clause 6 of the operational



guidelines issued for implementation of the Scheme is quoted hereunder:

“6. Pattern of assistance:

The Scheme envisages financial assistance to food processing units in the form of grant-in-aid as under:

- *35% of the eligible project cost subject to a maximum of Rs. 5.00 crore in General Areas;*
- *50% of the eligible project cost subject to a maximum of Rs. 5.00 Crores in North Eastern States including Sikkim and Difficult areas including Himalayan States (Himachal Pradesh, J&K & Uttarakhand), State Notified ITDP areas and Islands.”*

4. The Ministry, to provide assistance in implementation of the Scheme, engaged professional agencies as the Project Management Agency [**‘PMA’**], which was required to assist the Ministry in examination, evaluation and monitoring of the proposals. The guidelines further provided that eligible project cost will include the cost of plant and machinery and technical civil work, except the ineligible items mentioned therein. It also provided that cost of utilities essential for plant i.e. water pipeline, DG set, transformer, solar panel, boiler, solid waste treatment plan, ETP, etc., will be considered under the eligible project cost, subject to restriction of the cost being maximum 25% of the total project cost.

5. The guidelines also provided the procedure for receipt of applications, according to which the application under the Scheme would be invited through Expression of Interest [hereinafter referred to as **“EOI”**]. The applicant was initially required to submit its loan application to the bank for appraisal and sanction of the term loan for the project. The guidelines further provided that application for financial assistance needs to be submitted online in the prescribed format, and thereafter, a hardcopy was also to be sent



directly to the Ministry. The proposals were also required to meet certain basic eligibility criteria for being considered under the Scheme. The Scheme also provided that the applications received in response to EOI would be clubbed and evaluated at the end of each month, and shall be sanctioned subject to fulfilling the eligibility criteria and meeting the minimum qualifying assessment criteria. It also provided that mere submission of an application against the EOI would not confer any right for claim of grant-in-aid and that grant-in-aid will be sanctioned based on merit, preference criteria and evaluation of the proposal. It also provided that the grant shall be released subject to availability of funds under the Scheme to the approved projects as per merit and preference.

6. The guidelines also provided that the proposals which were found *prima facie* eligible will be evaluated as per the assessment criteria given therein and further that the applications will be evaluated by the PMA whereupon the proposals evaluated by the PMA will be examined by the Technical Committee for recommending merit based on marks and preference. The guidelines also provided that proposals recommended by the Technical Committee shall be placed before the Inter-Ministerial Approval Committee [hereinafter referred to as “IMAC”], and as per the decision of the IMAC approval/rejection/modification/revision in the proposal or the project components will be communicated to the applicant with suitable instructions.

7. The guidelines further provided that grant shall be disbursed through the bank that has sanctioned the term loan for the project and shall be released in two instalments, each at the rate of 50% of the grant. The relevant clauses



9, 10, 11 and 11.1 of the guidelines are extracted herein below:

“9. Receipt of applications:

The procedure for receipt of applications is as follows:

Applications under the Scheme will be invited through Expression of Interest (EOI). An applicant is initially required to submit their loan application to the bank for appraisal and sanction of the Term loan for the project. The application for financial assistance in the prescribed format need to be submitted online and subsequently hard copy has to be sent by the applicant directly to MoFPI within 10 working days after successful uploading of the online application.

The proposals have to meet the following basic eligibility criteria to be considered under the Scheme:

- i. Before submitting the grant application, applicant shall ensure fulfillment of following eligibility criteria to avail grant in aid under the Scheme.*
 - a. The promoter's capital/ equity investment on the project should not be less than 20% of the total project cost in case of General areas and 10% of the total project cost in case of NER & Difficult areas. (not applicable to Govt proposals).*
 - b. Availing term loan from the bank/ Financial Institution minimum 20% of the total project cost.*
 - c. Only those proposals shall be eligible in which sanction of term loan has been accorded by the Nationalized Banks/ Private Bank/ Scheduled Banks / FI after the date of advertisement of EOI of this Scheme.*
 - d. Date of commercial production should not be prior to the date of submission of application to the Ministry.*
 - e. Proposal should have eligible project cost more than Rs. 3 (three) crore in general areas and more than Rs. 1 (one) crore in case of North Eastern States including Sikkim and Difficult areas including Himalayan States (Himachal Pradesh, J&K & Uttarakhand), State Notified ITDP areas and Islands.*
 - f. Special provision for SC / ST entrepreneurs towards the earmarked allocation to the respective categories:*
 - (i) In case of proposals from SCs / STs, the proposals having eligible project cost of above Rs. 1 (one) crore will be considered in Mega Food Parks (MFPs), Agro-processing Clusters assisted by the Ministry and in designated food parks notified by the Ministry.*



- (ii) *The proposals with eligible project cost of more than Rs. 5 (five) crore will be considered irrespective of their locations in the country subject to meeting the other terms & conditions of the Scheme guidelines.*
- g.** *Applicants/ Promoters who have availed assistance under this Scheme and apply again under the same Scheme, then in such cases the previous project (s) should have achieved completion and commenced commercial operation/ production and successfully completed at least one year before the date of advertisement of EOI of this Scheme. However, this condition will not apply to the Promoter(s) of Mega Food Parks and Agro processing clusters approved by the Ministry who are desirous to setup units in their respective Mega Food Park & Agro Processing Cluster.*
- ii.** *The applicant fulfilling the above eligibility criteria under the Scheme is required to submit the online application in the prescribed format (**Appendix-A**) attaching therewith complete documents as prescribed in the guidelines at para 12.*
- iii.** *On successful submission of the completed application on Ministry's portal, an acknowledgement number of the application will be sent on registered email IDs to the applicant for future reference.*
- iv.** *The applications received in response to the EOI would be clubbed and evaluated together at the end of the each month and sanctioned subject to fulfilling eligibility criteria and meeting the minimum qualifying assessment criteria as per **Appendix-I** of the guidelines. The proposals would be sanctioned based on their merit order.*
- v.** *Ministry does not hold any responsibility for any proposal pending/ delayed at any level including online application portal which could not be submitted to Ministry within the prescribed time limit of EOI. Such proposals shall not be considered.*
- vi.** *Applicant shall thoroughly examine and ensure all the documents to be uploaded/forwarded with the application are in conformity with the Scheme guidelines. Incomplete information, deficient documents, irrelevant documents etc. submitted/ uploaded by the applicant along with application will lead to rejection of proposals.*
- vii.** *Whenever required the applicant would submit the original documents to MoFPI for further processing of the application.*
- 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.*



10. Procedure for approval of applications/ project proposals for financial assistance:

- i. The proposals found *prima facie* eligible based on the criteria as per para 9(i) will be evaluated as per the assessment criteria at **Appendix -I** of these guidelines.
- ii. The applications complete in all respect will be evaluated by the PMA based on the assessment criteria. The proposals evaluated by the PMA will be examined by the Technical committee for recommending merit based on marks and preference.
- iii. The proposals recommended by the Technical committee will be placed before the Inter Ministerial Approval Committee (IMAC). Details of TC and IMAC is at **Appendix-J**.
- iv. As per the decision of the IMAC, approval/ rejection/ modification/ revision in proposal or project components, if any, will be communicated to the Applicant with suitable instructions.

11. Procedure for Disbursement of grant:

Grant will be disbursed through bank that has sanctioned term loan for the project. Grant will be credit linked but not back ended and will be released in two instalments each @50% of grant in the following manner;

11.1 Release of 1st installment:

The first installment of grant would be released after the firm has utilized 50% of the term loan as well as 50% of promoter's contribution on eligible project cost and on production of the following documents by the applicant. The expenditure incurred on eligible project cost shall be commensurate to physical progress of the project.

- (i) **Duly notarized Surety Bond** - To be executed by the beneficiary company on Non-Judicial stamp paper of not less than Rs. 100/- (**Appendix-E**).
- (ii) **Bank Certificate** certifying that they have released 50% of term loan and the required expenditure has been made on the project. (**Appendix-C**).
- (iii) **CA certificate** - for actual expenditure incurred on the project as per the means of finances. (**Appendix-G**)
- (iv) **Jt. inspection report of PMA & Bank** - Inspection report verifying the actual physical progress made by the project on the ground, matching the expenditure claimed in CA certificate. (**Appendix-B**).
- (v) **NOC from Pollution Control Board** (consent to establish)
- (vi) **PFMS Registration** - Controller General of Accounts (CGA) registration of firm under agency type "private sector companies" and under the Scheme name "Pradhan Mantri Kisan Sampada"



Yojana-Creation/Expansion of Food Processing & Preservation Capacities [3609]”.

*A) The applicant needs to open three dedicated escrow/ current bank accounts with respect to the promoter(s) contribution, term loan and grants-in-aid separately for implementation of the project. Details of the bank account dedicated to grants-in-aid is to be provided in the ECS mandate as provided in **Appendix-K** so as to transfer the grant in same account.*

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.”

8. It is to be noticed that clause 11.1 (B) of the guidelines is crucial for determination of the issue involved in this appeal, which provides that the eligible expenditure for release of grants-in-aid shall be the expenditure made by an applicant on the eligible project cost in between date of EOI and the date of issue of approval letter. It further provides that such expenditure is to be verified from the bank account statement of the applicant and also with the bills/invoices to meet the expenditure as per the guidelines. It clearly provides that expenditure made/incurred before EOI will not be considered. In other words, the eligible expenditure for release of grant-in-aid is the expenditure incurred on the eligible project cost between the period commencing on the date of EOI and ending on the date of issue of approval letter. The guidelines categorically states that any expenditure incurred before EOI will not be considered as eligible expenditure. Thus, if any applicant had incurred any expenditure before EOI and thereafter the applicant also incurs expenditure between the date of EOI and the date of issuance of approval letter, such applicant will be eligible for grant-in-aid



only on the expenditure incurred by him between the date of EOI and the date of issuance of approval letter. No expenditure incurred before EOI is to be taken into consideration for the purposes of eligibility for release of grant-in-aid.

9. As already observed above, the revised operational guidelines were issued on 29.10.2018, whereafter, by means of a letter dated 07.12.2018, the eligible promoters under the Scheme were required to submit their proposal/EOI through online portal on or before 6 pm on 31.03.2019. Thus, the last date for submission of the application was 31.03.2019. The appellant/petitioner submitted its application before the said last date, i.e. on 28.02.2019. The fact that the appellant/petitioner submitted its application in response to the Scheme on 28.02.2019, is not disputed.

10. We may also note that prior to submission of EOI, on 27.09.2018 the Punjab National Bank, Kolkata, had sanctioned a term loan of Rs.15.50 crore to the appellant/petitioner for setting up storage capacity of frozen cold storage at Howrah, West Bengal.

11. The Technical Committee, in its meeting held on 12.03.2019, scrutinised the proposals received in the month of February, 2019, including the one submitted by the appellant/petitioner and in respect of the appellant's/petitioner's proposal, after scrutiny of the relevant material and documents, awarded a score of 88 out of a total score of 100. The Technical Committee, accordingly, opined that the proposal of the appellant/petitioner was meeting the eligibility criteria of the guidelines of the Scheme with the score of 88. The Technical Committee also observed in its decision that



inspection of the unit by the PMA is necessary for the Technical Committee to make a recommendation as it was a case of expansion.

12. The decision/recommendation made by the Technical Committee was placed in the meeting of the IMAC held on 20.06.2019, and the IMAC in the said meeting, after detailed deliberations, decided to refer the proposal back to the Technical Committee for evaluation/appraisal keeping in view the expenditure already incurred by the appellant/petitioner and also pre-inspection of the unit being a case of expansion.

13. As per the decision of the IMAC, the appellant/petitioner was required to submit certain details regarding the project for recalculation of the eligible period cost *vide* email communication dated 28.06.2019. By the said email communication, the appellant/petitioner was informed that IMAC had decided that the expenditure incurred under the project till the date of application, i.e. 28.02.2019, will not be considered eligible. The appellant/petitioner, pursuant to the said email communication, submitted its reply on 17.07.2019, whereafter the proposal of the appellant/petitioner was again considered by the Technical Committee in its meeting held on 08.11.2019. However, the proposal submitted by the appellant/petitioner was found to be ineligible. Decision of the Technical Committee taken in its meeting held on 08.11.2019 depicts that the appellant/petitioner had incurred about Rs.12 crore prior to the date of submission of the online application, and an expenditure of about Rs.17 crore was made till the date of the meeting of the Technical Committee, i.e. 08.11.2019. However, the Technical Committee, on evaluation of the project, awarded a score of 85 out of a total score of 100 in respect of the proposal of appellant/petitioner, whereas the



benchmark for eligible projects under the Scheme is a score of 60. The decision also states that the project was nearing completion and, therefore, the Technical Committee was of the view that no further site inspection by the PMA is required. The minutes of the meeting of the Technical Committee held on 08.11.2019, so far as it relates to the proposal submitted by the appellant/petitioner for grant-in-aid under the Scheme, is as under:-

“Minutes of the meeting of Technical Committee (TC) held on 08.11.2019, for scrutinizing the proposals received in the month of October, 2019 against EOI dated 15.07.2019 under the Scheme for Creation/Expansion of Food Processing & Preservation Capacities (CEFPPC)

.....

.....

Agenda Item No. 4:

M/s CRPL. Infra Private Ltd

Location of the project: Plot No A-08 & 09, Sudbaras Food Park, Sankrail, Howrah, West Bengal

Applicant's Category: General

Project Area Category: General

PMA: Ernst & Young LLP

1. A presentation was made by PMA ie. E&Y on the proposal submitted by the applicant i.e. M/S CRPA Infra Private Ltd, West Bengal based on the Eol submission and supporting information/documents/clarifications provided by the applicant.

2. TC noted the following:

(i). The promoter(s) of firm attended the meeting. However, the representative of the applicant attended the TC meeting.

(ii). The project is for a total project cost of Rs. 2571.60 lakhs, eligible project cost of Rs. 2367.74 lakhs and grants-in-aid of Rs. 500.00 lakhs.

(iii). TC noted that IMAC in its meeting held on 20.06.2019 directed the PMA for conducting pre-inspection of the unit to ascertain the expenditure incurred prior to the date of application by the applicant. Accordingly, PMA conducted physical site inspection of the unit and observed that the applicant has incurred about Rs. 12. 59. Cr. (about half of the project cost) prior to date of submission of online application under CEFPPC Scheme of the Ministry. Further, representative of the applicant informed that they have incurred an expenditure of about Rs. 17 Cr. on the project till the date of TC i.e. 08.11.2019.

TC observed that the project is nearing completion based on the expenditure



reported by PMA/applicant and also photographs presented by PMA. However, TC directed PMA to ascertain final expenditure incurred by the applicant on the project till the date of TC meeting and also revise the scoring sheet/criterion as per new Scheme guidelines.

(iv). TC further noticed that the same promoter(s) have already availed grants-in-aid under Cold Chain Scheme of the Ministry. 2nd installment was released on 20.06.2013 and project was closed by the Ministry without releasing 3rd /final installment.

3. TC also noted the following details of the proposal:-

(i). Basic Project Details:

Particulars	Details
Name of The Firm/Unit:	M/S/ CRPL Infra Private Ltd
Type of Organisation :	Public /Private Co.
PAN/TAN/CST No./Udyog Aadhar No:	AABCC8680N, 19AABCC8680N1ZZ
Location of The Firm/Unit:	Plot No A-08 & 09, Sudharas Food Park, Sankrail
District:	Howrah
State:	West Bengal
Categories of Promoter	General
Category of Area (General/ITDP/Island)	General
Lad Area:	2.26 Acre
Category of Firm/Unit:	Medium(<10Cr)
Sector/Sub-Sector:	Fish and Marine Processing
Purposed Products/byproducts	Frozen Fish and Marine Products
Whether Unit Is Located In Mega Food Park:	Yes, Sudharas Food Park, Sankrail
Nature of Operation	Perennial
Whether the unit will be an ancillary	No
Type of Project (New Setting up/Expansion):	Expansion of existing unit
Proposed Cumulative Capacity (After Expansion) :	11250 MTD
Existing Capacity (In Case of Expansion) :	6750 MTD
Existing Capacity Utilisation (%) :	80%
Term Loan sanction/appraising bank	Punjab National Bank

(ii). Project Cost:



<i>Particulars</i>	<i>As per Bank appraisal Amount (Rs. in lakhs)</i>	<i>Assessed Eligible Cost before deduction of expenditure incurred as on the date of application (Rs. in lakhs)</i>
<i>Land</i>	<i>0.00</i>	<i>0.00</i>
<i>Building - Non Technical Civil Work</i>	<i>0.00</i>	<i>0.00</i>
<i>Building - Technical Civil Work</i>	<i>224.96</i>	<i>173.40</i>
<i>Plant & Machinery (P&M)</i>	<i>1425.95</i>	<i>2193.92</i>
<i>Misc Fixed Assets</i>	<i>805.69</i>	<i>153.39</i>
<i>Pre-operative Cost</i>	<i>100.00</i>	<i>0.00</i>
<i>Margin money for Working Capital</i>	<i>0.00</i>	<i>0.00</i>
<i>Misc & Other (Taxes & Contingency)</i>	<i>15.00</i>	<i>0.00</i>
<i>Total</i>	<i>2571.60</i>	<i>2367.32</i>

(iii). Means of Finance:
(in INR lakh)

<i>Particulars</i>	<i>As per Bank appraisal Amount</i>	<i>*Revised Means of Finance</i>	<i>As per TC</i>
<i>Promoter's Contribution</i>	<i>1022.00</i>	<i>1021.60</i>	<i>1021.60</i>
<i>Term Loan</i>	<i>1550.00</i>	<i>1050.00</i>	<i>1050.00</i>
<i>MFPI Grant Sought</i>	<i>0.00</i>	<i>500.00</i>	<i>500.00</i>
<i>Unsecured Loan</i>	<i>0.00</i>	<i>0.00</i>	<i>0.00</i>
<i>Total</i>	<i>2572.00</i>	<i>2571.60</i>	<i>2571.6</i>

**The applicant had not mentioned Grant Sought as part of Means of Finance in any document submitted on application. We reached out to the promoters on ra@crystalgroup.in to provide a revised Means of Finance, certified from their lending bank on 05.03.2019, these values are based on the received revised Means of Finance.*

(iv). Eligible grants-in-aid:

<i>S. No.</i>	<i>Particulars</i>	<i>Amount (INR Lakh)</i>
<i>1</i>	<i>Eligible Cost of P&M</i>	<i>2193.92</i>
<i>2</i>	<i>Eligible Cost of TCW</i>	<i>173.40</i>
<i>3</i>	<i>Total Eligible Cost</i>	<i>2367.32</i>
<i>4</i>	<i>Expenditure already incurred till date of application</i>	<i>1259.54</i>
<i>5</i>	<i>Expenditure on eligible components already incurred</i>	<i>1121.11</i>



6	Revised Eligible Cost after deduction of expenditure incurred	1246.21
7	Eligible Grant in Aid	436.17

(v). The score awarded by TC:

S. No.	Criteria for Evaluation of Proposals	Max Marks	Marks Obtained	Remarks
1	Priority Sector			
a.	For perishable products (Fruits & vegetables/Meat & poultry/ Milk & Aqua Products, etc.)	20	20	Fish and marine products - blast freezing
b.	For consumer products (Bakery/Snacks/Breakfast cereals/RTE products etc.)	10		
c.	For Non-perishable products (Grain/Pulse/Oil milling etc.)	05		
2	Leveraging of Investment in a project			
	For General areas:			
a.	Proposed private investment including equity and unsecured loan excluding land cost $\geq$ 1.5 times of grant sought.	15	15	Based on the revised Means of Finance received from the applicant, the grant sought is INR 5.00 Cr, and Equity Contribution excluding land cost is. INR 10.22 Cr (2.05 times grant amount)
b.	Proposed private investment including equity and unsecured loan excluding land cost >1.5 times of grant sought.	10		
3	Investment on Eligible Project Cost:			
a.	More than Rs. 15 crore	12	12	Eligible Project Cost assessed as after deducting the expenditure till date of application is INR 2193.92 Crores
b.	More than Rs. 9 crore to Rs. 15 crore	8		
c.	Between Rs. 3 crore to Rs. 9 crore	6		
d.	Below Rs. 3 crore (in case of NE proposals)	4		
4	Economic Viability of			



	project based on Bank appraisal (financial parameter IRR, DSCR)			
4a.	Internal Rate of Return (IRR)			
a.	More than 20%	12	12	Projected IRR for the proposal is 21.26%
b.	Between 17% to 20%	8		
c.	Between 14% to 17%	4		
d.	Less than 4%	0		
4b.	Debt Service Coverage ratio (DSCR)			
a.	More than 3.0	12		Projected Average DSCR is 2.51
b.	Between 2.5 and 3.0	9	9	
c.	Between 2.0 and 2.5	6		
d.	Between 1.5 and 2.0	3		
e.	Less than 1.5	0		
5	Project Strength			
a.	The promoter(s) having professional/ special training in food processing/ technology (Entrepreneurs having Diploma/B.Tech./M.Tech./Ph.D. in Food Processing/Technology)	5	0	Not Eligible for score
6.	Experience of applicant firm/promoter(s) in Food Processing:			
a.	Food processing business having annual turnover of ₹3 crore and above during previous year	10	10	As per auditee balance sheet of the company as on 31 st March 2018, the annual revenue from operation is INR 11.06 crores.
b.	Food processing business having annual turnover of ₹2 crore but less than ₹3 crore above during previous year	7		
c.	Food processing business having annual turnover of ₹1 crore but less than ₹2 crore above during previous year	5		
d.	Food processing business having annual turnover of less than ₹1 crore during	3		



	<i>the previous year</i>			
7.	Introduction of innovative technology processing in the project	5	0	Not applicable
8.	Days of operations of the core processing facility			As per the DPR the proposed unit would be operational for 350 days in a year.
a.	More than 300 days	4	4	
b.	More than 250 days to 300 days	3		
c.	Less than 250 days	2		
9.	Location of the units			
a.	Mega Food Parks (MFPs) / Agro Processing Clusters (APCs) approved by MoFPI	5		
b.	Designated Food Parks (DFPs) notified by MoFPI from excluding MFP and APC	3	3	Proposed location is in designated food park.
c.	Outside DFPS/MFPs/APCs	2		
	Total Score	100	85	

TC Recommendation:

Based on the PMA appraisal, presentation and submission of documents by the applicant, TC 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.”

14. The appellant/petitioner, however, submitted a letter on 15.11.2019 to the Ministry of Food Processing Industries, Government of India, requesting for reconsideration of its proposal, stating therein that the appellant/petitioner, on evaluation criteria, had scored 85 marks and some of the proposals were selected based on final score of as low as 62, whereas inspite of scoring 85 marks, the Technical Committee has completely ignored the proposal only on account of the fact that the appellant/petitioner had incurred certain expenditure upfront to execute the project before submission of its



application, i.e. before 28.02.2019. In the said letter dated 15.11.2019, it was further stated by the appellant/petitioner that as per the guidelines, the expenditure made by the appellant/petitioner on the eligible project cost between the date of EOI and the date of approval letter, was to be considered as eligible expenditure and further that any expenditure made prior to the date of EOI will not be considered. Accordingly, a request was made to the Ministry to have a relook at the decision declaring the proposal of the appellant/petitioner ineligible for grant-in-aid under the Scheme.

15. It appears that based on the said recommendation dated 08.11.2019 made by the Technical Committee, the IMAC took a decision on 20.11.2019, declaring the appellant/petitioner ineligible for the benefit of grant-in-aid under the Scheme. It is this decision/recommendation of the Technical Committee dated 08.11.2019, which was challenged by the appellant/petitioner by instituting the W.P. (C) 4879/2021, that has been dismissed by the impugned judgment passed by the learned Single Judge.

-: SUBMISSION ON BEHALF OF APPELLANT/PETITIONER :-

16. Impeaching the judgment under appeal herein, Sh. Sudhir Nandrajog, learned senior counsel for the appellant/petitioner, has argued that the learned Single Judge has not correctly appreciated the provision of clause 11.1 (B) of the guidelines of the Scheme which clearly provided that expenditure made by the applicant on the eligible project cost in between EOI and the date of issuance of approval letter, is to be considered as eligible expenditure for seeking the benefit of grant-in-aid under the Scheme. He has further argued that this clause clearly states that the expenditure made/incurred before EOI



will not be considered. His submission is that in a situation where an applicant incurs some expenditure before the date of EOI and thereafter too, in that eventuality, the expenditure incurred before the EOI will not be taken into consideration for the purposes of calculating the eligible expenditure, however expenditure made between the period commencing from the date of application and ending on the date of approval, will have to be considered for the purposes reckoning the eligible expenditure.

17. Sh. Nandrajog has, thus, argued that merely because the project was at the verge of completion could not be a ground for the respondent to have denied the benefit to the appellant/petitioner under the Scheme. His submission, thus, is that the learned Single Judge has not only misconstrued the provisions of clause 11.1(B) of the guidelines of the Scheme but has also not taken into account the fact that the score of the appellant/petitioner on re-evaluation of the project given by the Technical Committee, was the score of 85, which is much above the benchmark score of 60. It has further been argued on behalf of the appellant/petitioner that reliance placed on clauses 9(viii) and 11.3 (ii) of the guidelines of the Scheme by the learned Single Judge is misplaced. In this regard, it is the submission of the appellant/petitioner that it was not the case setup by the appellant/petitioner that on submission of the application, any right had accrued to the appellant/petitioner of being provided the grant-in-aid under the Scheme; rather the submission was that under the Scheme once the appellant/petitioner was eligible, any denial of the benefit would be arbitrary.

18. Sh. Nandrajog has, thus, submitted that learned Single Judge has failed to consider this aspect of the matter and relying on clause 9(viii) and 11.3 (ii)



of the Scheme, has returned a finding that there was no illegality in the decision of the respondent holding the appellant/petitioner to be ineligible for grant-in-aid under the Scheme and as such it is a clear case where the arguments of the appellant/petitioner do not appear to have been appreciated by learned Single Judge in its correct perspective.

19. Further submission of Sh.Nandrajog is that merely because clause 11.3(ii) of the guidelines of the Scheme provides that the decision of the Ministry relating to eligibility, etc. shall be final, would not render the respondent immune from challenge to any of its action, if such an action is arbitrary, which in this case is manifest for the simple reason that holding the appellant/petitioner ineligible under the Scheme is contrary to what clause 11.1(B) of the Scheme provides for, interference in the decision will be well within the power of judicial review.

20. It is also the submission of Sh.Nandrajog, learned senior counsel representing the appellant/petitioner that the learned Single Judge has made certain observations about non-availability of the ground based on principle of legitimate expectation so far as the cause of the appellant/petitioner is concerned, however, the claim of the appellant/petitioner is not based on the said principle; rather it is based on the ground that holding the appellant/petitioner ineligible merely because it had incurred certain expenditure prior to the date of submission of its application, is absolutely arbitrary as the same runs in complete contrast to what clause 11.1 (B) of the guidelines of the Scheme provides for.

21. He has reiterated that in terms of clause 11.1 (B) of the guidelines of the



Scheme, in case an applicant under the Scheme had incurred certain expenditure both before making the application and thereafter as well, in such a situation the expenditure incurred by such an applicant before the date of submission of the application will not form part of eligible expenditure, though any expenditure made or incurred after the date of application till the date of letter of approval will have to be necessarily reckoned and taken into consideration for the purposes of calculating the eligible expenditure.

22. The case, thus, as per the learned senior counsel for the appellant/petitioner, as setup in the writ petition, was based on, firstly, misinterpretation of clause 11.1 (B) of the guidelines of the Scheme by the respondent and secondly, on the ground that the reasons given for holding the appellant/petitioner as ineligible under the Scheme suffered from arbitrariness.

23. It is also the submission of learned senior counsel for the appellant/petitioner that learned Single Judge, while rejecting the claim as put forth in the writ petition, has observed that the right to get aid is not a fundamental right, which, according to him, was never the basis of the claim of the appellant/petitioner before learned Single Judge. He states that the claim as put forth by the appellant/petitioner was based on his right under the Scheme and its proper implementation in terms of the guidelines of the Scheme. Sh. Nandrajog, thus, submitted that the said reason assigned by learned Single Judge rejecting the claim of the appellant/petitioner is misplaced.

24. On the aforesaid counts, it has thus been urged by learned senior



counsel for the appellant/petitioner that the judgment passed by the learned Single Judge, which is under appeal herein, be set aside and appropriate directions be issued to the respondents to provide grant-in-aid under the Scheme to which the appellant/petitioner is entitled.

-: SUBMISSION ON BEHALF OF RESPONDENT :-

25. Opposing the appeal and supporting the judgment passed by learned Single Judge which is under appeal herein, learned counsel for the respondent solely relied upon the provisions contained in clause 9(viii) and 11.3(ii) of the Scheme and has submitted that the submission of the application by the appellant/petitioner did not confer any right on him for claiming grant-in-aid under the Scheme and that decision of the Ministry in relation to eligibility, etc. is final and binding and therefore, the appellant/petitioner cannot have any grouse against such decision whereby the competent authority has held that appellant/petitioner as ineligible under the Scheme.

26. Learned counsel for the respondent has, thus, while supporting the judgment passed by the learned Single Judge, vehemently opposed the instant appeal.

-: DISCUSSION AND ANALYSIS :-

27. The issue in this appeal for consideration revolves around the interpretation of Clause 11.1(B) of the Scheme, which has already been quoted above. According to the said provision, it is only the expenditure made by an applicant under the Scheme incurred between the date of submission of EOI and the date of issuance of the Approval Letter which is to



be considered as Eligible Expenditure for holding an applicant eligible for grant-in-aid. The provision further categorically states that any expenditure incurred before the date of submission of EOI will not be considered. The language employed in the provision embodied in Clause 11.1(B) of the Scheme is simple and clear. It does not contain any ambiguity. According to this provision, for the purposes of calculating the eligible expenditure for release of grant-in-aid, it is the expenditure incurred by an applicant between the date of submission of EOI and the date of issuance of Approval Letter which is to be taken into account for the purposes of calculating the eligible expenditure. No expenditure incurred before submission of EOI/ date of making the application will be counted to calculate the eligible expenditure. If the provision is read accurately, the simple and clear meaning it conveys is that in a situation where an applicant incurs certain other expenditure between the date of submission of EOI and date of issuance of Letter of Approval, then in that eventuality, it is only the expenditure incurred during the period between the date of submission of EOI and date of issuance of Letter which has to be taken into account for calculating the eligible expenditure. Any expenditure incurred before submission of EOI is not to be taken into account for the said purposes.

28. The facts of the instant case, which are not in dispute, are that there was certain expenditure which was incurred by the appellant/petitioner before submission of EOI, and also there were certain expenditures incurred after the date of submission of EOI and before the Letter of Issuance of Approval. Thus, if we peruse the provisions contained in Clause 11.1(B) of the Scheme, what we find is that the expenditure incurred by the appellant/petitioner prior



to submission of the EOI will not be taken into consideration for calculating the eligible expenditure, however, the expenditure incurred by the appellant/petitioner during the period commencing from the date of making the application/ submitting the EOI and the date of issuance of approval Letter will have to be necessarily taken into account for the purposes of determining the eligible expenditure.

29. We are of the considered opinion that in a situation where expenditure has been incurred by an applicant, both before submission of EOI, and also after submission of EOI, merely because an applicant has made certain expenditure before submission of EOI, will not render such an applicant to be ineligible for grant-in-aid under the Scheme. If such an applicant incurs any expenditure after the date of making the application/ submission of EOI, he shall be considered to be eligible for the purpose of determining the eligible expenditure. In light of the aforesaid, if we examine the reason given by the Technical Committee while taking the impugned decision in its meeting held on 08.11.2019, what we find is that the appellant/petitioner has been held to be ineligible only for the reason that it had incurred about 12 crores prior to the date of submission of online application. In the same decision the Technical Committee also notices that an expenditure of about Rs.17 crores till the date the Technical Committee met i.e. 08.11.2019 was also incurred by the appellant/petitioner. However, the amount of expenditure of Rs. 17 crores which was incurred by the appellant/petitioner after the date of submission of online application has been completely ignored by the Technical Committee for the purposes of calculating the eligible expenditure for giving the benefit of grant-in-aid under the Scheme to the



appellant/petitioner, which, in our opinion, could not have been done.

30. The other reason given by the Technical Committee in its impugned decision dated 08.11.2019 holding the appellant/petitioner to be ineligible is that the project is nearing completion. In our opinion, there is no such condition in the guidelines of the Scheme that even if an applicant is otherwise eligible and its project is nearing completion, such an applicant will not be eligible for seeking grant-in-aid under the Scheme, and accordingly, we have no hesitation to observe that such a reason assigned by the Technical Committee is alien to the Scheme itself.

31. If we peruse the minutes of the meeting of the Technical Committee dated 08.11.2019, what we find is that while noticing the basic project details in Clause (iv): eligible grants-in-aid, the Technical Committee has also noted the total eligible cost of the project to be Rs. 2367.32 lakhs, the expenditure incurred before the date of application as Rs. 1259.54 lakhs, the expenditure on eligible components already incurred as Rs. 1121.11 lakhs, and thereafter has come to the conclusion that the revised eligible cost after deduction of expenditure incurred comes out to be Rs. 1246.21 lakhs. The Technical Committee, thereafter, has calculated the eligible grant-in-aid to be Rs. 436.17 lakhs, which is 35 per cent of the revised eligible cost in terms of Clause 6 of the Guidelines of the Scheme. Thus, once the Technical Committee itself has calculated the eligible amount of grant-in-aid by subtracting the expenditure already incurred till the date of application, from the total eligible cost, it was not open to the Technical Committee to have held, in our considered opinion, that the appellant/petitioner is ineligible merely because of the reason that certain expenditure was made by it prior to



the date of making the online application. The fallacy in such a conclusion is that the Technical Committee takes into consideration only the fact that certain expenditure was made by the appellant/petitioner before the date of making of the online application though despite noticing that certain expenditure was also made by the appellant/petitioner after the date of making of the application and before the date of meeting of the Technical Committee, such expenditure has been ignored, which, in our considered opinion, ought to have been taken into account for the purposes of determining the eligibility in terms of what has been provided for in Clause 11.1 (B) of the Scheme. Further, we also note that the Technical Committee in its recommendation for holding the appellant/petitioner ineligible states that the project is nearing completion. In our opinion, such a reason cannot form a valid reason for holding any applicant to be ineligible as no such ground is available in the Scheme for holding any applicant to be ineligible for grant-in-aid, if the project is nearing completion. What is relevant is the expenditure incurred by an applicant during the period commencing from the date of making of online application and ending on the date of the consideration of the project by the Technical Committee or the date of issuance of the Letter of Approval.

32. Thus, we have no hesitation to hold that the reasons assigned by the Technical Committee in its impugned recommendation dated 08.11.2019 are not sustainable as the same do not conform to the requirement for an applicant being eligible under the Scheme. We may also note that the marks awarded by the Technical Committee in its evaluation of the application of the appellant/petitioner is a score of 85 as against the benchmark score of 60. In



this view, we observe that the appellant/petitioner appears to be otherwise fully eligible for the grant-in-aid under the Scheme, and the same has been denied only for the reason assigned by the Technical Committee in its decision dated 08.11.2019 which, in our opinion, is not sustainable for the reasons stated above.

33. Coming to the submission made by learned counsel for the respondent based on the provisions contained in Clause 9(viii) and 11.3(ii) of the Guidelines, in our opinion, the said ground for denying the benefit to the appellant/petitioner of grant-in-aid under the Scheme is not sustainable. Clause 9(viii) has already been extracted above. Clause 11.3(ii) of the Guidelines is extracted hereunder:

“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.”

34. A perusal of Clause 9(viii) of the Guidelines of the Scheme reveals that no applicant will have any right to claim grant-in-aid under the Scheme merely on submission of the application. There cannot be any dispute about the said provision; however, if any claim of grant-in-aid has been denied for the reasons which are contrary to the Scheme itself, this Court is vested with ample power and jurisdiction under Article 226 of the Constitution of India to strike down such a decision if the same is found to be illegal and against the terms of the Scheme itself.

35. When we peruse Clause 11.3(ii) of the Scheme, as quoted above, we find that the said Clause provides that the decision of the Ministry in respect of certain matters, including those relating to eligibility, has been made final



and binding on the applicant. However, such a Clause of attaching finality to the decision of the Ministry does not make any decision of the Ministry immune from challenge before this Court in exercise of its power of judicial review. If, in an appropriate case, despite finality attached to a decision of the Ministry, such a decision is found to be arbitrary or suffering from any other illegality, the same can be well-nigh struck down by this Court.

36. The submission made by the respondents, thus, in our opinion, does not persuade us to uphold the impugned decision where the appellant/petitioner has been held to be ineligible for grant-in-aid under the Scheme.

37. The learned Single Judge, while passing the impugned judgment has, however, placed heavy reliance on Clauses 9(viii) and 11.3(ii) of the Guidelines of the Scheme which, in our opinion, could not be taken aid of, for justifying the decision of the Technical Committee taken in its meeting held on 08.11.2019 as the same, for the reasons stated above, has been found to be illegal being contrary to the terms of the Scheme itself.

38. Further, the learned Single Judge appears to have not properly construed the provisions of Clause 11.1(B) of the Scheme, and therefore, for the reasons aforesaid, we find ourselves unable to agree with the findings recorded by the learned Single Judge in this regard.

39. As regards the observations made in the impugned judgment by the learned Single Judge on the applicability of the principles of legitimate expectation, we are of the opinion that the case of the appellant/petitioner is not based on the said principle rather, it is based on denial of its claim under the Scheme itself for reasons which are not germane and referable to the



provisions of the Scheme, as discussed above.

40. In view of the aforesaid discussion made and reasons given, we are unable to align ourselves with the conclusions drawn and findings returned by the learned Single Judge while passing the judgment which is under appeal herein. The appeal, thus, deserves to be allowed.

41. Resultantly, the following orders are passed:

- a) The appeal is allowed.
- b) The judgment dated 06.02.2024, passed by the learned Single Judge, which is under appeal herein, is set aside.
- c) The decision of the Technical Committee in its meeting held on 08.11.2019, so far as it relates to the appellant/petitioner, and the consequential decision taken by the Inter-Ministerial Approval Committee/ the Ministry, are hereby quashed.
- d) The respondents are directed to re-consider the claim of the appellant/petitioner for release of grant-in-aid under the Scheme afresh in light of the observations made hereinabove in this judgment, with expedition, say within a period of two months from the date a certified copy of this order is produced before the authority concerned.
- e) Costs made easy.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 03, 2025

“shailndra”/N.Khanna