(1998) 08 P&H CK 0106

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 173 of 1998

Bawa Gram Udyog Samiti and Another — APPELLANT

Vs

Khadi and Village Industries Commission and Another — RESPONDENT

Date of Decision : 26-08-1998

Acts Referred:

Khadi and Village Industries Commission Act, 1956 — Section 15

Citation : AIR 1999 P&H 114 : (1998) 4 RCR(Civil) 536

Hon'ble Judges : V.K. Bali, J;B. Rai, J

Bench : Division Bench

Advocate : D.N. Ganeriwala, for the Appellant; Aman Chaudhary, (for No. 1) and U.K. Agnihotri, (for No. 2), for the Respondent

Final Decision : Dismissed

Judgement

V.K. Bah, J.—We propose to decide these five connected Civil Writ Petitions bearing No. 7245 of 1994, 3728 of 1994, 4377 of 1994, 5077 of 1994 and 173 of 1998 by one order as common questions of facts and law are involved in all these petitions. Learned Counsel for the parties have also prayed that these petitions be disposed of by one order. Brief facts have, however, been extracted from 1998 CWP 173 .

2. Bawa Gram Udyog and another through CWP No. 173 of 1998 have challenged order Annexure P-7 as also order Annexure P-10 dated 14-7-1992 and 16-1-1993 issued by respondents and have further prayed for stay of recovery of working fund.

3. Facts on which the relief stated above is sought to rest reveal, that in the year 1956, the Government oflndia established Khadi and Village Industries Commission by way of Act No. 61 of 1956 with a view of organise and promote khadi and village industries. There came into being an agreement between petitioners and the Board on 11-7-1989 in which it had been provided that the institution shall pay normal interest @ 4% per annum on the expiry of each

financial year. On 28-4-1992 another agreement came into being, between the petitioners and the Board. In 1964 respondents had issued circular which allowed the working fund to be retained by the institutions till the quantum of production and sale of goods is maintained as per norms. The matter regarding extension of working fund system to the units financed by the Board after issuance of circular Annexure P-3 was placed in the meeting of the Board held on 28-9-1973. Since the Haryana Khadi and Village Board respondent No. 2 issued the letter dated 2-1-4- 1975 regarding the working fund facility to its financed units, however, the Khadi and Village Industries Commission, respondent No. 1, with-out providing any opportunity to the petitioners and without seeking the approval from the Government of India issued orders withdrawing the facility without examining its complicity of working funds with effect from 24-7-1992. The association of the petitioners filed representation on 31-8-1992 to respondent No. 1 regarding withdrawal of circular dated 24-12-1964. Pursuance to''ihe order dated 14-7-1992, the Board further issued orders dated 27-9-1996, 29-10-1996 respectively regarding recovery of working fund frpm the petitioners and regarding non-issuance of genuine certificates. It is in these circum-stances that the present writ for the relief as mentioned above has been filed.

4. The primary and, in fact, only contention of the learned Counsel representing the petitioners is that impugned order Annexure P-7 is in violation of the terms of agreement that came into being between the parties i.e. Annexures P-1 and P-2 and till such time the conditions incorporated, in agreement Annexures P-1 and P-2 were complied by the petitioners, the impugned order Annexure P/17 and consequential order Annexure P-10 could not possibly be passed.

5. We have considered the contention of the learned counsel but in view of the averments made in the written statement filed by respondent No. 2, we find no merit in the same. It has, inter alia, been pleaded in the written statement filed on behalf of respondent that the Central Board had constituted the Khadi and Village Industries Commission i.e. respondent No. 1 which in turn finances the respondent Board. The Board in exercise of its powers and functions controls various khadi and village industries/institutions. The answering-respondent had been established for the purpose of implementation of the Gandhian Philosphy through the upliftment of village by promoting and developing the villages. For the purpose of establishing Khadi and Village Industries/Institutions, the working capital loan advanced to the petitioner-societies for their establishment was converted into working fund at a subsidised nominal rate of interest of 4% by respondent No. 1 and the Board is implementing the same. As per agreement, the modification of the system and recalling of the loan was well '' within the right of the respondents. The condition, of recalling the said loan has clearly been incorporated in Annexures P-1, P-2 and P-4. Respondent No. 1 ordered the withdrawing of working fund loan and therefore, respondent No. 2 in compliance with the same ordered recovery of loan, The said loan amount on being repaid to the Board by the petitioners was then to be provided for utilisation to other units which were craving to be established. The failure of the petitioners-societies to

repay the said loan amount hampered the growth of other units which were to be established. It has further been pleaded that in case the petitioner-societies had taken loan fonn other financial institutions the interest at the rate of 18% would have been charged from them whereas the interest charged by the respondents was only at nominal rate of 4%. Therefore, besides having the benefit of utilising loan amount for over a decade, the petitioner-societies had been earning/saving a net interest of 14%. In other words, the petitioner-societies had derived two times benefit on the loan amount. It is in these circumstances and in view of blockade of working fund loan and misuse thereof by the petitioner-society that it was decided to recover the working fund loan in terms of the specific condition Nos. 4 and 8, 4 and 9 and 2 and 2(i) of the Annexures P1, P-2 and ,P-4 respectively. The consequence of abovesaid decision was issuance of orders Annexures P-7, P-10 and P-I1. It has further been pleaded that respondent No. 1 had issued circular for withdrawing /recalling of the aforesaid working fund on July 14, 1992 and that order Annexure P-10 was passed on 15-1-1993 only as a consequence of order Annexure P-7 and therefore, the writ was belated. It has further been pleaded that respondent No. 1 had issued circular for withdrawing/ recalling of the aforesaid working fund on July 14, 1992, Annexure P-7 and that order Annexure P-10 was passed in 1993 only as a consequence of order Annexure P7 and therefore, the writ was belated.

6. We have gone through various documents and in particulars Annexures P-1, P-2 and P-4. Clauses 4and 8 of agreement Annexure P-1 reads as follows :--

"4. That the institution shall remit to the Board a normal interest which will accrue to the Board on the working fund of Rs. 1,02,000/- on 31st March of each year. In case of failure to do so, the working fund facility will be withdrawn by the Board with immediate effect and the Board shall have the rights, without prejudice to the institution to recover the outstanding balance of working funds along with normal interest accrued thereon together with the penal interest @ 5% P.A. over and above the said principal amount and its normal interest which has become due.

"8. That the institution shall be bound by all such conditions which are laid down by the Board from time to time in connection with the working fund"

Clauses 4 and 8 of agreement Annexure P-2 reads as follows :--

"4. That the institution shall remit to the Board a normal interest which will accrued tp the Board on the working fund of Rs. 75,000/- on 31st March of each year. In case of failure to do so, the working fund facility will be withdrawn by the Board with immediate effect and the Board shall have the rights, without prejudice to the institution to recover the outstanding balance of working funds along with normal interest accrued thereon together with the penal interest @ 5% P.A. and compound interest over and above the said principal amount and its normal interest which has become due."

"8. That the institution shall be bound by all such conditions which are laid down by the Board from time to time in connection with the working fund."

7. It is clearly made out from the clauses aforesaid and in particular clause 8 of the agreement Annexure P-1 that the institution i.e. petitioner shall be bound by all such conditions which are laid down by the Board from time to time in connection with the working fund. The Board for valid reasons as have been given above has withdrawn the facilities given to the petitioner and we find nothing inappropriate in the reasons as has been culled out above from the written statement filed on behalf of respondent.

Finding no merit in this petition, we dismissed the same.

