
(2008) 06 SHI CK 0020
In the High Court Of Himachal Pradesh

Black Gold Rubber

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 06-06-2008

Acts Referred:

Constitution of India, 1950 — Article 162, 309

Citation : (2008) 2 ShimLC 298

Hon'ble Judges : Jagdish Bhalla, C.J;R.B. Misra, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

R.B. Misra, J.—In the present writ petition prayers have been made to quash the communications letter dated 29.6.2007 (Annexure P-10), 11.10.2006 (Annexure P-11) and the clarificatory letter dated 19.9.2006, referred in Annexure P-11 to the petition, whereby, the petitioner unit has been denied the grant of Central Capital Investment Subsidy on second substantial expansion of the unit undertaken by it on 15.1.2007. Further prayer has been made for holding that the petitioner being eligible industrial unit be granted Central Capital Investment Subsidy in reference to notification dated 7/8.1.2003 irrespective of number of substantial expansions carried out by it, subject to maximum amount of Rs. 30 lacs.

2. The counter-affidavits on behalf of respondents No. 1 and 2 as well as respondent No. 3 Union of India have been filed and the petitioner has also chosen to file rejoinder affidavit in respect of the response of respondent No. 3.

3. The brief facts necessary for adjudication of the present writ petition are that the petitioner a partnership firm located at Rampur Ghat, Tehsil Paonta Sahib, District Sirmour, H.P. is engaged in manufacturing and sales of Tread Rubber, Cushion Compound and Vulcanizing Solution falling under Chapter 40 of the Central Excise Tariff Act 1985. The Government of India, Ministry of Commerce and Industry, (Department of Industrial Policy & Promotion)/(the respondent No.

3 herein) has announced fiscal incentives for the States of Himachal Pradesh and Uttranchal pertaining to the Central Excise, Income Tax and Central Capital Investment Subsidy. The Central Government has issued a Central Capital Investment Scheme, 2003 (Annexure P-4) on 8.1.2013 for granting of Central Capital Investment Subsidy for industrial unit in the States of Uttranchal and Himachal Pradesh. The scheme was to remain in force upto 6.1.2003. Salient features of this scheme, relevant for the purpose, is indicated as below:

2. Commencement and duration of the Scheme.--It will come into effect from 7th January, 2003 and remain in force upto and inclusive of 6.1.2013.

3. Applicability of the Scheme.--The scheme is applicable to all industrial units in the Growth Centres approved for Uttranchal and Himachal Pradesh and also to the new industrial units or existing units, on their substantial expansion, in Growth Centres or Industrial Infrastructure Development Centres (IIDC) or industrial estates/parks/export promotion zones and commercial estates set up by State of Uttranchal and Himachal Pradesh and to expansion in the specified thrust industries (as at Annexure) located outside these growth centers and other identified locations.

4. Eligibility period.--The subsidy will be available during the duration of the scheme, to an eligible industrial unit for a period of ten years from date of commencement of commercial production.

5. Definitions.--(a) "Industrial Unit" means any industrial unit where a manufacturing programme is carried on or suitable servicing unit as defined in M/o SSI Letter No. 2(3)/91-SSI.Bd dated 30.9.1991, other than that run Departmentally by Government.

(b) "New Industrial Unit" means an industrial unit for the setting up of which effective steps were not taken prior to 7th January, 2003.

(c) "Existing Industrial Unit" means an industrial unit existing as on 7th January, 2003.

(d) "Substantial Expansion" means increase by not less than 25% in the value of fixed capital investment in plant and machinery of an industrial unit for the purpose of expansion of capacity/modernization and diversification.

(e) "Effective steps" means one or more of the following steps:

(i) that 10% or more of the capital issued for the industrial unit has been paid up.

(ii) that any part of the factory building required for manufacturing activity has been constructed.

(iii) that a firm order has been placed for any plant and machinery required for the industrial unit.

(f) "Fixed Capital Investment" means investment in plant and machinery for the purpose of this scheme.

6. Extent of admissible subsidy.--All eligible industrial units located in the Growth Centres or IIDC or industrial estates/parks/export promotion zones and commercial estates set up in Uttranchal and Himachal Pradesh shall be given capital investment subsidy at the rate of 15% of their fixed capital investment in respect of new units or additional investment in respect of substantial expansion by an existing unit in the plant and machinery, subject to a maximum ceiling of Rs. 30 lacs.

6.1. Similar benefits would also be extended to the new industrial units or to the existing units, on their substantial expansion, in other Growth Centres or IIDC or industrial estates/parks/export promotion zones and commercial estates set by the Governments of Uttranchal and Himachal Pradesh, new industrial unit or to the existing units, on their substantial expansion, in the specified thrust industries (as at Annexure) located outside these growth centers and other identified locations, would also be eligible for similar fiscal incentives.

10. Procedure for disbursement of Capital Investment Subsidy.--The State Government will set up a Committee consisting of a representative each of the State Finance Department and State Directorate of Industries and if the industrial unit is to be assisted by a financial institution, the representative of the financial institution concerned, which would go into each case to decide whether it should qualify for the grant of subsidy and also about the quantum of subsidy.

4. It appears pursuant to the above notification dated 7/8.1.2003 the petitioner unit undertook substantial expansion by 146% on 17.4.2004. New machinery worth Rs. 18,10,241/- was installed in the unit as a result of which the petitioner became entitled to capital investment subsidy to the extent of 15% of capital investments, so made after 7.1.2003. 15% of Rs. 18,10,000/- comes to Rs. 2,71,536/- which was duly sanctioned by the respondents vide office order dated 21.11.2006 (Annexure P-7). It appears that the petitioner undertook second substantial expansion on 15.1.2007 by installing new machinery worth Rs. 25.48 lacs in the unit. Such expansion carried out on 15.1.2007 comes out to 61% i.e. more than required 25% to qualify substantial expansions. The petitioner submitted its letter dated 28.6.2007 for availing the benefit subsidy of Rs. 3,82,000 (i.e. 15% of Rs. 25.48 lacs) as capital investment subsidy on its second substantial expansion.

5. Some of the existing industrial units already having availed Central investment subsidy on expansion not exceeding maximum ceiling of Rs. 30 lacs were since contemplating to undertake substantial expansion for the second time, therefore, in that respect, Director of Industries, State of Himachal Pradesh, referred the matter vide letter dated 9.3.2006 to the Central Government which in return clarified by an office memorandum dated 19.9.2006 indicating as below:

Para 5(d) of the Gazette Notification dated 8th January, 2003, cannot be construed to include second expansion by any undertaking to become eligible for Central Investment Subsidy. Hence the request for availing second dose of

capital investment subsidy cannot be acceded to.

6. In reference to above O.M. Letter dated 19.9.2006 the petitioner was accordingly informed vide letter dated 29.6.2007 (Annexure P-10) and all General Managers of District Industries Centre-State of H.P. were also intimated vide letter dated 11.10.2006 (Annexure P-11).

7. Feeling aggrieved against the impugned communications dated 29.6.2007 (Annexure P-10), 11.10.2006 (Annexure P-11) and clarification dated 19.9.2006, the petitioner has preferred the present writ petition.

8. Following submissions have been advanced on behalf of the petitioner:

(i) The Notification dated 7/8.1.2003 does not restrict the grant of subsidy only for the first substantial expansion.

(ii) The only consideration laid down in the above notification is that the maximum amount of subsidy shall not exceed Rs. 30 lacs.

(iii) The subsidy granted at the rate of 15% of the total investment made after 7/8.1.2003 would mean that the subsidy would be available till the capital investment does not exceed Rs. 2 crore as 15% of Rs. 2 crore equals to Rs. 30 lacs.

(iv) The petitioner was granted capital investment subsidy on 146% expansion undertaken by it on 17.8.2004 on capital investment worth Rs. 18,10,241/- and 15% of Rs. 18,10,241/- comes to Rs. 2,71,536/- which was granted to the petitioner on its first expansion which is very well within the ceiling limit of Rs. 30 lacs prescribed in the notification. The capital investment subsidy on capital investments worth Rs. 25.4 lacs undertaken by the petitioner in its second substantial expansion comes to Rs. 3,82,000/-. As such according to the petitioner Rs. 2,71,536/- + Rs. 3,82,000/- comes to Rs. 6,53,536/- which will again be within the ceiling limits prescribed under the parent notification of Rs. 30 lacs i.e. the maximum permissible limit.

(v) The main purpose of notification dated 7/8.1.2003 was to give fiscal incentives to the new industries/existing industries/specified industries/thrust industries to encourage them to undertake substantial expansion after 7/8.1,2003.

(vi) There is no condition in the parent notification that incentives/subsidy cannot be claimed by the eligible units on their second substantial expansion.

(vii) The maximum ceiling limit has been prescribed and this limit is irrespective of number of substantial expansions carried out by the unit.

(viii) Number of expansions have not been spelt out in the policy and rightly so, because it would have been against the object of the policy.

(ix) It is not open to the respondents to deviate from the principal policy by issuing the clarification dated 19.9.2006 contrary to the object of principal policy

which has no nexus to the object sought to be achieved.

(x) The notification dated 19.9.2006 is discriminatory, so much so, between the large scale industries and small scale industries to the extent that big industries on their sole expansion can make investments upto Rs. 2 crore, thereby, availing maximum Central Subsidy of Rs. 30 lacs in one go, whereas, small-scale industries for lack of financial constraints cannot undertake the expansion worth Rs. 2 crore in one go as it might be possible to achieve in their series of expansions.

(xi) Non-permissibility of series of expansion and allowing only one expansion would be against the basic intent of notification dated 7/8.1.2003 and in such a manner the small scale industries would never be able to reap the advantage of fiscal incentives completely.

9. Learned Counsel for the petitioner to strengthen the submissions has submitted as below:

(a) In view of the observations of the Supreme Court in *State of Bihar and Others Vs. M/s. Suprabhat Steel Limited and Others*, , once the respondent No. 3 has issued a notification and industrial incentives policy then it would not be permissible to deny its benefit which is otherwise available to the petitioner under the industrial incentive policy itself and the Central Government cannot issue a clarificatory memorandum dated 19.9.2006 indicating a different meaning and stand against the original object and policy indicated earlier.

(b) In view of the observations of the Supreme Court in *Union of India and Others Vs. Diljeet Singh and Another*, , the statutory notification dated 7/8.1.2003 issued by respondent No. 3 cannot be replaced by subsequent executive order dated 19.9.2006 issued in the form of non-statutory order. The Supreme Court has held in *Diljeet Singh's* case (supra) as follows:

11. xxxxxxxxxx. It is true that where a subsequent order does not specifically supersede an earlier order but if both the orders relate to the same subject and are issued in exercise of the same power, statutory or otherwise, notwithstanding the absence of specific words superseding earlier orders in the subsequent order, it can be inferred that the earlier notification has been impliedly superseded. But where the earlier order is a statutory notification and the subsequent order is not a statutory notification/order but is merely an executive order; such an inference cannot be drawn as a non-statutory order cannot replace a statutory notification even if it purports to do so specifically though a statutory notification can substitute a non-statutory notification/order x x x x x.

(c) In view of the observations made by the Supreme Court in *Beopar Sahayak (P) Ltd. and Others Vs. Vishwa Nath and Others*, in para 9, the Government Notification issued in official gazette cannot be superseded by administrative instructions.

(d) In *Kerala Financial Corporation Vs. Commissioner of Income Tax*, , the

Supreme Court has held that the permissibility of circulars to "deviate" from the provisions of the Act was not one which was affirmed by the Constitution Bench.

(e) In reference to observations in *Subhash Ramkumar Bind @ Vakil and Another Vs. State of Maharashtra*, it has been submitted that the issuance of subsequent clarification dated 19.9.2006 in the form of administrative instruction cannot be treated at par with the notification dated 8.1.2003.

10. On the other hand, learned Advocate General appearing on behalf of the State of Himachal Pradesh has invited the attention of this Court to the memorandum dated 7th January, 2003 (Annexure P-2) whereby in Clause 3.1 fiscal incentives to new units have been provided which reads as under:

3.1. Fiscal incentives to new industrial units and to existing units on their substantial expansion:

(1) New Industrial units and existing industrial units on their substantial expansion as defined, set up in Growth Centers, Industrial Infrastructure Development Centers (IIDCs). Industrial Estates, Export Processing Zones, Theme Parks (Food Processing Parks, Software Technology parks, etc.) as stated in Annexure 1 and other areas as notified from time to time by the Central Government are entitled to:

(a) 100% (hundred percent) outright excise duty exemption for a period of 10 years from the date of commencement of commercial production.

(b) 100% income tax exemption for initial period of five years and thereafter 30% for companies and 25% for other than companies for a further period of five years for the entire States of Uttaranchal and Himachal Pradesh from the date of commencement of commercial production.

(II) All New industries in the notified location would be eligible for Capital Investment Subsidy @ 15% of their investment in plant & machinery subject to a ceiling of Rs. 30 lacks. The existing units will also be entitled to this subsidy on their substantial expansion, as defined.

(III) Thrust Sector Industries as mentioned in Annexure-II are entitled to similar concessions as mentioned in para 3(1) & (II) above in the entire States of Uttaranchal and Himachal Pradesh without any area restrictions.

11. According to the learned Advocate General the Central Government, vide Office Memorandum dated 19.9.2006 has clarified that the Notification 19.9.2006 cannot be construed to include second expansion by any undertaking to become eligible for Central Capital Investment Subsidy. According to him by mere reading of Clause (6) of notification dated 8.1.2003 (Annexure P-4) clarified by O.M. Letter dated 19.9.2006 has made the position clear, accordingly the request for availing second expansion of Central Investment Subsidy cannot be acceded to.

12. Mr. Sandeep Sharma, learned Assistant Solicitor General of India has also argued that para 5(d) of the notification dated 8.1.2003 cannot be stretched too

far, so as to form another fixed capital investment and as per para 5(d) the term "Substantial expansion" has been defined to mean increase by not less than 25% in the value of "fixed capital investment" in plant and machinery of an industrial unit for the purpose of expansion of capacity/modernization and diversification. According to Mr. Sharma for understanding the true meaning of the "Substantial Expansion" as indicated in para 5(d), it is necessary to read paras 3 and 5(f) of the notification dated 8.1.2003. He further submits that the above scheme notified by the Central Government is to provide Central grant or subsidy for industrial units in the States of Himachal Pradesh and Uttranchal with a view to accelerate the industrial development in these States. As per para 3, the scheme is applicable to all industrial units in the growth centre approved for Uttranchal and Himachal Pradesh and also to the new industrial units or existing units on their substantial expansion in growth centers or industrial infrastructure development centers or industrial estates etc. As per para 5(d) the term "substantial expansion" has been defined to mean increase by not less than 25% in the value of "fixed capital investment" in plant and machinery of an industrial unit for the purpose of expansion of capacity/modernization and diversification.

Mr. Sharma further submitted that the term "fixed capital investment" under para 5(f) has been defined to mean investment in plant and machinery for the purpose of the scheme. When all the above provisions are read together would indicate that the fixed capital investment would be investment in plant and machinery for the purpose of the scheme as was indicated in the books of accounts of a particular unit on the date of the notification dated 8.1.2003. The "substantial expansion" of not less than 25% provided under para 5(d) has to be on this fixed capital investment. There is nothing to suggest under para 5(d) that any subsequent investment towards "substantial expansion" could be clubbed in the fixed capital investment existing as on the date of the scheme so as to form another fixed capital investment. According to Mr. Sharma the clarification dated 19.9.2006 has been issued in the form of administrative instruction clarifying its earlier administrative/execution instruction dated 8.1.2003 issued indicating the policy/scheme in the form of letter, memorandum, notification or resolution.

13. The executive power of the State Government under Article 62 of the Constitution extends to all matters with respect to which the State Legislature has power to make laws and accordingly the State Government can act in exercise of executive power in relation to any matter with respect to which the State Legislature has power to make laws, even if there is no legislation to support such executive action, but such executive action must not infringe the right of any person. If the executive action taken by the State Government encroaches upon any private rights, it would have to be supported by the legislative authority for under the rule of law which prevails in our country every executive action which operates to the prejudice of any person must have authority of law to support it. *Rai Sahib Ram Jawaya Kapur and Others Vs. The State of Punjab*, ; *Bennett Coleman and Co. and Others Vs. Union of India (UOI) and Others*, ; *State of Madhya Pradesh and Anr. v. Thakur Bharat Singh* AIR 1967 SC 1170 ;

Naraindas Indurkha Vs. The State of Madhya Pradesh and Others, ; State of Madhya Pradesh and Another Vs. Kumari Nivedita Jain and Others, .

14. The State in exercise of its power is charged with the duty and the responsibility of carrying on the General administration of the State. So long as the State Government does not go against the provisions of the Constitution or any law, the width and amplitude of its Executive Power cannot be circumscribed. If there is no enactment covering a particular aspect, certainly the Government can carry on the administration by issuing administrative directions or instructions, until the legislature makes a law in that behalf, otherwise, the administration would come to a standstill. Bishambhar Dayal Chandra Mohan and Others Vs. State of Uttar Pradesh and Others, .

15. It may not be possible to frame an exhaustive definition of what executive function means and implies. Ordinarily, an executive power connotes the residue of governmental functions that remain after legislative and judicial functions are taken away. The executive function comprises both the determination of the policy as well as carrying it into execution. This evidently includes the initiation of legislation maintenance or order, the promotion of social and economic welfare, the direction of foreign policy, in fact carrying on or supervision of the general administration of the State in view of the verdict in Rai Sahib Ram Jawaya Kapoor (supra),

16. There can be no dispute with the proposition that a rule framed under the proviso to Article 309 of the Constitution cannot be modified by an executive order or instruction. State of Maharashtra and another Vs. Chandrakant Anant Kulkarni and others, . The Executive instruction cannot override the rules under the proviso to Article 309 of the Constitution as they are equated with the act of a legislature. Thus an administrative instruction under the proviso to Article 309 cannot supplement them. S. Bhagat Singh v. Union of India and Ors. 1981 LIC 1308. If the statutory rules framed by the Governor or any law enacted by the State Legislature under Article 309, is silent on any particular point, the State Government can fill up that gap and supplement the rule by issuing administrative instructions not inconsistent with the statutory provisions already framed or enacted.

17. Broadly stated, the distinction between rules and regulations on the one hand, and administrative instructions on the other is that rules and regulations can be made only after reciting the source of power, whereas administrative instructions are not issued after reciting the source of power.

18. Executive/Administrative instructions can be issued in any form i.e. in the form of letter, memorandum, notification or resolution. I.N. Saksena Vs. State of Madhya Pradesh, .

19. An administrative order is reviewable for error, procedural defects and also to redress injustice. M. Nagalakshmiah v. State of Andhra Pradesh and Ors. 1973 (2) SLR 105; Ranbir Chandra v. Union of India 1978 (2) SLR 340.

20. Executive order not based on any rational foundation is untenable. Even orders passed by the executive may be tested on the touchstone of reasonableness in view of the decision of Supreme Court in NOIDA Entrepreneurs Association v. NOIDA and Ors. (2007) 10 SCC 385 , but in the present case, since the scheme was promulgated by the Central Government which was by way of incentive to the Industrial Unit, as such there is no question of unreasonableness. It is well settled that the Court must exercise judicial restraints in respect of administrative decisions in view of the decision in Vema China Koteswara Rao Vs. District Collector and Others, whereby Hon''ble Supreme Court has affirmed its earlier view in Tata Cellular v. Union of India (1994) 6 SCC 651 . The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy, nor are Courts advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the Government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review. Directorate of Film Festivals and Others Vs. Gaurav Ashwin Jain and Others, .

21. It was observed by Supreme Court in Dhampur Sugar (Kashipur) Ltd. Vs. State of Uttranchal and Others, , as under:

It is well settled that public authorities must have liberty and freedom in framing policies. Although the discretion is not absolute, unqualified, unfettered or uncanalised and judiciary has control over all executive actions, it is also well established that Courts are ill-equipped to deal with these matters. In complex social, economic and commercial matters, decisions have to be taken by governmental authorities keeping in view several factors, and it is not possible for Courts to consider competing claims and conflicting interests and to conclude which way the balance tilted. There are no objective, justiciable or manageable standards to judge the issues nor can such questions be decided on a priori considerations.

It is well settled that every power must be exercised bona fide and in good faith. In other words, every action of a public authority must be based on utmost good faith, genuine satisfaction and ought to be supported by reason and rationale. It is, therefore, not only the power but the duty of the Court to ensure that all authorities exercise their powers properly, lawfully and in good faith. If powers are exercised with oblique motive, bad faith or for extraneous or irrelevant considerations, there is no exercise of power known to law and the action cannot be termed as action in accordance with law. But a Court of law is not expected to propel into "the uncharted ocean" of Government policies. Once it is held that

the Government has power to frame and reframe, change and rechange, adjust and readjust policy, the impugned action cannot be declared illegal, arbitrary or ultra vires the provisions of the Constitution only on the ground that the earlier policy had been given up, changed or not adhered to. It also cannot be attacked on the plea that the earlier policy was better and suited to the prevailing situation.

22. Judicial review is not against decision, but is against decision making process in view of the decision in *Bank of India and Others Vs. T. Jogram*, (Para 15). Decision of executive authorities based on opinion of experts deserves to be respected. Court cannot sit as a Court of appeal over the decision of executive authorities. *Greater Kailash Part-II Welfare Association and Others Vs. DLF Universal Ltd. and Others*, . In the matter of policy decisions or exercise of discretion by Government so long as the infringement of fundamental right is not shown, the Court will not and should not substitute its own judgment for the judgment of the executive in such matters. In assessing the propriety of a decision of the Government the Court cannot interfere even if a second view is possible from that of the *Ekta Shakti Foundation Vs. Govt. of NCT of Delhi*, .

23. Even the withdrawal of Exemption/Exception/Relaxation, concession provision, exemption notification is permissible in public interest in view of the decision in *A.P. Steel Re-Rolling Mill Ltd. Vs. State of Kerala and Others*, Any scheme by way of an executive instruction in terms of Article 162 of the Constitution, if violative of such statutory rules would not be legally sustainable. *Mahadeo Bhau Khilare (Mane) and Others Vs. State of Maharashtra and Others*, . A policy decision may be subjected to change from time to time, only because a change is effected, the same by itself does not render a policy decision to be illegal or otherwise vitiated in law. *Ramchandra Murarilal Bhattad and Others Vs. State of Maharashtra and Others*, .

24. By reason of policy, a vested or accrued right cannot be taken away. *Union of India v. Asian Food Industries* (2006) 13 SCC 542 . Grant of rebate, exemption or concession, held is in the nature of the policy of Government and such policy unless shown to be contrary to law or inconsistent with the provisions of the Constitution, normally are not subject to judicial review in view of the decision of Hon"ble Supreme Court in *Sidheshwar Sahakari Sakhar Karkhana Ltd. Vs. Union of India (UOI) and Others*, . Intention of such policy maker must be founded out from the words used in subordinate legislation in view of *Asian Food Industries* (supra).

25. We have heard learned Counsel for the parties and have also perused the record. We notice that notification dated 8.1.2003 had been issued by the Central Government by way of an Industrial Policy for promoting by way of the scheme and providing Central Grant Subsidy to the Industrial Units with a view to accelerate the industrial development in the State. This scheme is applicable from 7th January, 2003 to 6th January, 2013 and the scheme is subject to the eligibility and conditions indicated in the scheme itself. Truly, it is a benevolent

scheme. The scheme has not been issued to create right or has been brought in exercise of the powers under Article 309 of the Constitution of India or in exercise of power u/s 162 of the Constitution. The Central Government is author of the scheme which has brought it for accelerating industrial development with certain aims and objects and it does not create any inherent right enforceable under law by the industrial units. The incentive in question is in the form of a non-statutory order which is nothing but an executive order, in wake of policy, as such could be revised or altered by subsequent executive or administrative or non-statutory order. In the present case in hand, the letter dated 19.9.2006 is only a clarificatory order by the author i.e. Central Government about the applicability of substantial expansion. The words and language used in the scheme are clear. The objects in the scheme is clear which has only been elaborated and clarified by the office memorandum dated 19th September, 2006 which is very well within the competence of Central Government.

26. When the language of concession/exemption/incentive/rebate is clear, it must be given effect to in view of *Sidheshwar Sahakari Sakhar* (supra) and when language is clear, the intentipn of legislature has to be gathered from the language used in view of decision of Supreme Court in *Raghunath Rai Bareja and Another Vs. Punjab National Bank and Others*, .

27. After hearing learned Counsel for the parties and after perusal of documents, we are of the considered view that there is no scope of interference in the clarificatory order 19.9.2006 as well as in the orders 11.10.2006 and 29.6.2007. The writ petition is devoid of any merit which deserves to be dismissed. The writ petition is accordingly dismissed.