(2001) 01 MP CK 0031

In the Madhya Pradesh High Court

Case No : Writ Petition No. 1843 of 2000

Brajesh Kumar Sharma APPELLANT

Vs

State of M.P. and others RESPONDENT

Date of Decision : 22-01-2001

Acts Referred:
Constitution of India, 1950 — Article 226, 227

Citation : (2001) 3 MPHT 306 : (2001) 3 MPLJ 164

Hon'ble Judges : Dipak Misra, J

Bench : Single Bench

Advocate : Shri D.K. Soni, for the Appellant; Shri Ashok Agrawal, Panel Lawyer, Shri V.S. Shroti, for the Respondent

Final Decision : Dismissed

Judgement

Dipak Misra, J.

Invoking the extra-ordinary jurisdiction of this Court under Articles 226 and 227 of the Constitution of India the petitioner has called in question the pregnability of the order dated 11-2-2000 passed by the Task Force Committee and concurred by the Manager, District Industries Centre, Narsinghpur vide Annexure P-9 and has prayed for quashment of the same.

The facts lie in a narrow compass. The Central Government in the Department of Small Scale Industries and Agro and Rural Industrial floated a scheme namely Primer Minister''s Rojgar Yojna. The said scheme is intended to open new industries for the educated unemployed to seek employment with the assistance of the institutional finance and the State subsidy. The said scheme has the objective to provide employment to more than a million persons by setting up seven lakhs Micro Enterprises by the educated unemployed. The scheme also seeks to associate reputed non-Government organisations in implementation of the Prime Minister''s Rojgar Yojna Scheme especially in the selection and training of entrepreneurs and preparation of project profile. The scheme was launched on

2-10-93.

The petitioner, post graduate in Commerce, applied for grant of loan for opening of a Computer Institute. The said application was processed but eventually vide Annexure P-9 it was rejected on the ground that the petitioner''s father is a teacher and hence, he is not entitled to the benefit under the scheme.

A return has been filed by the respondent No. 5, the Field Officer of State Bank of India contending, inter alia, that though the petitioner meets the requirement of age and educational qualification he is not entitled to the benefit under the Scheme as his father''s annual income is more than Rs. 24,000/-. It has also been pointed out in the return that there has been amendment in the parameters in regard to family income and even if the amended parameters are applied the petitioner is not entitled to the benefit.

I have heard Mr. D.K. Soni, learned counsel for the petitioner, Mr. V.S. Shroti, learned counsel for respondent No. 5 and Mr. Ashok Agarwal, learned panel lawyer for the State.

Submission of Mr. Soni is that he is living separately from his father and, therefore, the income of the father cannot be taken into consideration while scrutinising the income of the petitioner. It is his further submission the scheme has been introduced with a purpose and if a literal interpretation is given it would debar the likes of the petitioner who is separate from their parents and that would frustrate the basic purpose of the scheme.

Resising the aforesaid submission it is urged by Mr. Shroti as well as by Mr. Agarwal that the language of the scheme is absolutely clear and unambiguous and, therefore, it must be given due meaning without adding anything to the language used in it. The learned counsel have proponed that the Scheme defines the ''Family income'' and in view of the existing definition the whole income has to be taken into consideration and travelling beyond the same would be impermissible.

To appreciate the rival submissions raised at the Bar, I have perused the Scheme with utmost anxiety. Under Clause 3.3.0 ''Family income'' has been defined. It reads as under :

"Family income of the intended beneficiary should not exceed Rs. 24,000 per annum."

Under Clause 3.4.0 the term ''Family'' has been defined. It is as under:

"Family for the purpose would mean spouse and parents of the beneficiary and family income would include income from all sources, whether, wages, salary, pension, agriculture, business, rent income etc."

Initially under 3.3.0 family income was defined and therein it was stipulated that the same should not exceed Rs. 24,000/- per annum. Submission of Mr. Shroti is that initially the total family was taken into consideration for the purpose of income but thereafter and parameters were changed by office memorandum dated 22-1 -99 as contained in Annexure R.1. As per the changed parameters, the family income has been defined as under :--

"Family income.-- Neither the income of the beneficiary alongwith the spouse nor the income of parents of the beneficiaries shall exceed Rs. 24,000/- per annum."

On a proper scrutiny of the aforesaid modification it is graphically clear that if the income of the parents of the beneficiary exceeds Rs. 24,000/- he will not be entitled to the loan as stipulated under the Scheme. In the case at hand it is not disputed that the father of the petitioner is a teacher in a Government school and his annual income exceeds Rs. 24,000/-. What is contended by Mr. Soni is that the petitioner has been separated from his father and, therefore, it should be held that the embargo created in the scheme on the basis of the income of the father should not be applicable to him. I am afraid, such a contention would not be acceptable in view of the clear and unambiguous language used in the scheme and there is no justification for travelling beyond the scheme. The irresistible conclusion is that if the petitioner does not fulfil the requirement of the scheme he would not be entitled to the benefits of the same and as the order passed vide Annexure P-9 is in consonance of the terms and conditions of the scheme. I do not find any error in the same.

In the result, the writ application being sans merits and stands dismissed without any order as to costs.

Writ Petition dismissed.