

(2014) 03 CAL CK 0008
In the Calcutta High Court
Case No : Writ Petition No. 6233 (W) of 1999

Deekay Coconut Oil Industries	Vs	APPELLANT
State of West Bengal		RESPONDENT

Date of Decision : 21-03-2014

Acts Referred:

Citation : (2014) 3 CHN 676

Hon'ble Judges : Asim Kumar Roy, J

Bench : Single Bench

Advocate : Swapan Kumar Oatta and Sambuddha Datta, Advocate for the Appellant; Ram Mohan Pal, Advocate for the Respondent

Judgement

Ashim Kumar Roy, J.—The writ petitioners is a registered partnership firm carrying on business of manufacturing of Coconut Oil as a small scale industry and has been granted necessary registration certificate by the appropriate authority. It is the further case since the unit is situated in a backward area, the same is entitled to fiscal incentives and reliefs in terms of the West Bengal States Scheme for Incentives to Ancillary, Cottage and Small Scale Industry, 1989. It is contended that the General Manager, District Industries Centre, Birbhum, the Respondent No. 5 issued an order sanctioning Rs. 94,697/-, as subsidy to the Unit of the writ petitioners in terms of the aforesaid scheme and after the District Level Committee for the State Incentive Schemes, in its meeting approved the petitioners' claim for subsidy. Following that, the petitioner applied for subsidy, some time in May 1991, when the General Manager, District Industries Centre, Birbhum-respondent No. 5 by his letter being Annexure-D, to the writ petitioner asked it to produce the following documents:--

"1) Copy of the Power of Attorney.

2) One affidavit declaring that there has been no change in the constitution of the firm whatsoever and ownership and that the earlier partners are still holding good."

2. Then the learned Counsel for the petitioners, drawing attention of this Court to the Annexure-"E", submitted as desired by the respondent No. 5, they at once supplied Xerox copy of the Power of Attorney and the affidavit. He further pointed out that even after furnishing those documents as per the requirement of the respondent authorities, the respondent No. 5, vide Annexure -"F" all the three partners were asked to be personally present before it for execution of necessary agreement bond on any working day and disbursement of subsidy will be made on presentation of certified copy of the executed bond and stamped money receipt. Then again, the respondent authority insisted the writ petitioner to submit articles of agreement (vide Annexure-A). and at once the same was submitted.

3. Then he drew the attention of this Court to the Annexure-N and submitted even though all the requirements were fulfilled, however, for the reason best known to the respondent authority the claim of subsidy which was already granted in favour of the writ petitioners was withheld and cancelled. It is contended before taking such decision, no hearing was given.

4. Lastly, the counsel for the petitioner added that by an order passed on 11th June 1999, when this writ application was admitted and there was a direction for filing of affidavit-in-opposition within a period of three weeks, but no affidavit has been used, moaning thereby the respondent authorities have not traversed any one of the allegations.

5. Mr. Ram Mohan Pal, learned Counsel appearing on behalf of the State resisted the application and submitted very rightly, the grant of subsidy has been withheld and cancelled because the writ petitioners have not submitted all the documents in conformity with the statutes but could not enlighten what were the infirmities. He submitted that this writ application be dismissed with costs.

6. Coming to the core issue, I find it is not disputed from the side of the respondent authorities, the writ petitioners are otherwise entitled to subsidy amount. The subsidy was allowed to the writ petitioner after the District Level Committee, on due consideration of its case selected it and approved its claim. However, according to the Annexure -M, the impugned order, the grant of sanction was cancelled, due to the reason the article of agreement bond was not executed as per the rule and the resolution of the District Level Committee. I find from the annexure "F" the writ petitioner was asked to visit the respondent's office for execution of agreement bond but nothing was spelt out either what was the rule or the resolution of the District Level Committee. In the impugned order also, neither any rule or resolution was referred, far less as to how the same was ignored. No hearing was also given to the writ petitioner before cancellation of the order granting subsidy. The order in one hand said that the order of subsidy has been withheld, but simultaneously cancelled the same.

7. For the reasons stated above, the order impugned cannot be sustained, which is manifestly arbitrary, unreasonable and illegal and in clear violation of principle

of natural justice. Hence, the order impugned being Annexure-M to this writ application stands quashed. I direct the respondent authority to pass appropriate orders for releasing the subsidy amount. I make it clear that writ petitioners shall not be insisted to produce any further documents, except executing the articles of agreement bond, if not executed earlier. In the event, it is found that the articles of agreement already executed was not executed in accordance with the rule or the resolution of the District Level Committee then in that case within a week from the date of communication of this order, the respondent authorities shall in writing apprise the writ petitioner about such lapses and grant him two weeks time to rectify the same. The entire process must be completed within four weeks. Urgent photostat certified copy of this order, if applied for, be given to the learned advocate for the parties as early as possible.