(2006) 10 PAT CK 0002

In the Patna High Court

Kiran Re-roller''s Pvt. Ltd. APPELLANT

Vs

State of Bihar and Others RESPONDENT

Date of Decision : 13-10-2006

Acts Referred:

Citation : AIR 2007 Patna 62 : (2006) 4 PLJR 513

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Judgement

Navaniti Pd. Singh, J.—Heard the parties. With consent of parties, this writ application is being disposed of at the stage of admission itself.

2. The grievance of he petitioner is that under Central Subsidy Scheme of the Central Government, the petitioner, intending to set up a new industrial unit, was entitled to subsidy at the rate of 25% of the capital assets created. It is not in dispute that this amount has to be appraised and certified to the financing institution and forwarded to the State Level Committee which, after appraising the said report, had to sanction the said amount. The finance institution, in the present case, is BICICO which as financing the unit in question and is a State Government undertaking. After sanction by the State Level Committee, the Slate Government has to make a recommendation to the Central Government which, under the said policy, is then obliged to disburse the said amount either to the State Government for disbursement to the unit or to the finance institution directly for disbursement to the unit. This subsidy is an outright grant to help industries set up and function to ensure long term liability. It is not in dispute that the unit was sanctioned a central capital subsidy of Rs. 17.24 lacs. It executed an agreement with BICICO but as the actual disbursement was being delayed, prayer that for the interregnum, it may be given a bridge loan. It may be mentioned here that bridge loan is a loan temporary in nature to tide over a temporary situation and carries interest which is normally charged on long term loan. It would, thus, be seen that bridge loan is not same as subsidy or any other financial assistance without liability to pay interest.

3. It appears that the Central Subsidy Scheme was withdrawn with effect from 1-4-1989 and replaced by State Capital Subsidy. Petitioner was not entitled to State Capital subsidy as he had availed and was sanctioned Central Capital Subsidy. The two subsidies, that is the State Subsidy and the Central Capital subsidy, are in alternative, State Subsidy having come after withdrawal of Central Subsidy.

4. Certain disbursement of Central Subsidy was also made. But, thereafter, the authorities appeared to have slept over the matter. It now appears and it is a position not disputed that the Central Government on 5th October, 1998 (Annexurc-15) paid BICICO directly Rs. 6.90 lacs towards balance Central subsidy under the Central Outright Grant Subsidy Scheme, 1971 to be paid to the petitioner. Regrettably BICICO, instead of paying the same to the petitioner, kept the same with it without any authority and without even disclosing this fact to (he petitioner which Itself is a matter of grave concern so far as the credibility of BICICO is concerned. It is Indeed surprising how a financial institution handling public money chooses to behave in such an outright mala fide manner. They were entrusted with this money by the Central Government to be paid to industrial units as Central Subsidy but they chose to misappropriate the same and it is only when the matter was brought to the notice of this Court, they admit having received the money almost a decade back.

5. The question now arises that undisputedly and undoubtedly this amount of central subsidy of Rs. 6.90 lacs has been lying with BICICO on account of the petitioner since 5th October, 1098. On the other hand, the unit being indebted to BICICO, BICICO has been charging heavy Interest on the outstanding amount. The question is what is the proper remedy and relief to be granted.

6. So far as remedy is concerned the petitioner has rightly lited this application seeking Issuance of a writ in the nature of mandamus commanding BICICO to disburse the said amount. in other words, it is for a direction to BICICO to give credit of the said amount to the petitioner. There cannot be an exception to this. BICICO in law was required to pay the said money entrusted to it by the Central Government for payment to the petitioner. It failed to do so. A writ in the nature of mandamus would surely issue compelling BICICO to pay the said amount to the credit of the petitioner.

7. So far as the relief is concerned, apart from the aforesaid direction, it is necessary to direct that the credit would be given to the account of the petitioner as on 5th October, 1998. It will be treated as if this is an amount deposited in the term loan or other account by the petitioner for repayment and/or discharge of his debts. As of the said date on the balance outstanding interest as usual would be charged.

8. The effect is that the liability of the petitioner would stand reduced by a sum of Rs. 6.90 lacs as on 5-10-1998 and BICICO would be obliged to recomputed the accounts accordingly. I, accordingly, direct BICICO. The accounts must be

recalculated and details thereof must be sent to the petitioner within four weeks from today.

9. In view of the aforesaid facts, no further direction need be issued. This writ application stands disposed of accordingly.

