
(2006) 08 PAT CK 0012
In the Patna High Court
Case No : CWJC No. 8353 of 2004

M/s Magadh Mechanical Pvt. Ltd.

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 24-08-2006

Acts Referred:

Citation : (2007) 1 PLJR 173

Hon'ble Judges : Navaniti Pd. Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Navaniti Pd. Singh, J.—Heard learned counsel for the parties. The State has filed counter affidavit and counter affidavit has also been filed by BICICO.

2. The dispute is now in a very short compass. Petitioner has filed this writ application stating that he was entitled to Central Capital Subsidy by way of incentive for setting up industry. He made an application for the same through BICICO, which is the financial institution financing petitioner's project. BICICO forwarded the same to the State Government. The State Government sanctioned the total subsidy claim of Rs. 12,24,200/- on 9.11.1989 in favour of the petitioner. The said amount was disbursed to the BICICO for payment to the petitioner. On 24.1.1990 an amount of Rs. 10,40,570/- was paid to the petitioner by BICICO. 15% of the sanctioned amount was withheld as the petitioner had not till then started commercial production. The said 15% amount comes to Rs. 1,83,630/- and is now being sought to be denied to the Industry on the ground that it has now closed down and is not operational. These facts are not disputed by either party rather are specifically admitted by BICICO in their counter affidavit in paragraph 9.

3. In view of the aforesaid, no relief can be granted to the petitioner so far as the State is concerned because the State duly discharged its obligation. But, certainly so far BICICO is concerned, it was required to disburse the said balance

amount in the year 1990 itself. This was Central Capital Subsidy, which presupposes that it was the subsidy to subsidise the capital investment. The capital investment is an investment required to set up an Industry and unless an Industry is allowed to be set up it cannot be expected to go into commercial production.

4. In that view of the matter, the action of the BICICO in retaining the amount of 15% of the Central Capital Subsidy is absolutely arbitrary and illegal and has no basis. The petitioner is, thus, found to be entitled for the said amount and there being an inordinate delay of over 16 years, the petitioner would further be entitled to interest at the rate at which the interest is charged by BICICO from entrepreneurs like the petitioner.

5. I, accordingly, direct that within a month from today the BICICO shall pay the balance amount alongwith interest at the rate at which BICICO charges from the units like the petitioner. With this direction, writ application is allowed.