(2004) 02 PAT CK 0108

In the Patna High Court

Case No : C.W.J.C. No. 3291 of 2002

M/s Radha Flour Mill (Pvt.) Ltd. APPELLANT

Vs

The State of Bihar and Others RESPONDENT

Date of Decision : 17-02-2004

Acts Referred:

Citation : (2004) 4 PLJR 465

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Advocate : Navaniti Pd. Singh, for the Appellant; P.K. Shahi, Rajesh Kumar for the Corporation and Mr. Bharti Bhagat for the State, for the Respondent

Judgement

Radha Mohan Prasad, J.—In this writ petition, petitioner is (sic) grieved by the order of the Director, Industries, contained in Annexure-14, whereby the claim of the petitioner for grant of Central Investment Capital Subsidy has been rejected on the sole ground that the application was filed by the petitioner after the cut off date i.e. 30.9.1988. It appears that earlier the petitioner had come to this Court in C.W.J.C. No. 5481 of 1990, which was disposed of along with other three writ petitions by the Division Bench vide order dated 8.8.1995, contained in Annexure-12, with a direction to the State of Bihar that balance amount which remained unpaid out of the sanctioned amount in favour of each of the petitioners should be paid in two equal instalments-first instalment within six months and the second instalment within one year from that day. The said order was not complied and the petitioner filed M.J.C. application. However, during the pendency of the M.J.C. application the impugned order (Annexure-14) was passed. The State also filed review application bearing Civil Review No. 25 of 1996. However, it is submitted that in view of the order of the Director, Industries, contained in Annexure-14, the review application and contempt matter were disposed of with an observation that fresh cause of action has arisen and it is, thus, open to the petitioner to challenge the order in fresh writ petition in accordance with law. It appears that in the meanwhile the Supreme Court also passed the order in the case of M/s Umesh Textile & anr. v. Union of India & anr. on the question of grant of subsidy, a copy whereof has been annexed as Annexure-18. The said order, however, does not deal with the question raised on behalf of the petitioner.

2. According to the learned counsel for the petitioner as far back on 22.9.1988 the Central Government informed the State Government that on non-manufacturing industries the Central subsidy would stand discontinued with the exception of inter alia flour mills if industrial registration had been issued for such units. It was also pointed out that the State Government should inform the industries to take effective steps to implement the projects. This communication was forwarded by the Industries Department to the Respondent-Corporation. This was followed vide communication dated 21.7.1989 of the Central Government to the State Government wherein it was pointed out that entitlement of central capital subsidy would be available to the projects that were approved on or before 30.9.1988 and, thereafter, subsidy could be disbursed if the disbursements were made by 31st December, 1989, inter alia, for manufacturing activities and 30th September, 1989 for non-manufacturing activities. He also referred to the submissions made in paragraphs 34 & 35 of the writ petition wherein it is stated that the said directive was never brought to the notice of the industries much less the petitioner industry. It is submitted that on account of which the petitioner was not in a position to immediately file its complete claim within the stipulated time and the petitioner''s claim was delayed and now for no fault of the petitioner, he is being denied the same on the plea of delay in filing of the claim.

3. A counter affidavit has been filed on behalf of Director, Industries (Respondent no. 2) as well as on behalf of Finance Corporation and its officials (Respondent nos. 3 & 4).

4. Learned counsel for the State as well as learned counsel for the Respondent-Corporation has failed to show that the subsequent decision of the Central Government for filing of the claim within the stipulated time was ever communicated to the petitioner or notified. Under such circumstances, I failed to appreciate as to how the claim of the petitioner has been rejected on the sole ground that the application was received after the cut off date i.e. 30.9.1988, despite the order of this Court passed in the earlier writ petition. This only shows gross callousness on the part of the Director, Industries in dealing with such claim. Writ application is, thus, allowed with cost of Rs. 5,000/- (Rupees five thousand) to be paid by the Director, Industries from his pocket to the petitioner. The Director will be at full liberty to realise the amount of cost from the person responsible for such arbitrary action. The Respondents are directed to consider the application of the petitioner on merit and dispose it of by a fresh order keeping in view the earlier direction given by this Court in C.W.J.C. No. 5481 of 1990 referred to above as well as Annexure-13.

