(1990) 05 P&H CK 0068

In the Punjab And Haryana At Chandigarh

Case No : C.W.P. No. 10433 of 1989

M/s. Vikram Steering and Linkages (Pvt.) Ltd. APPELLANT

Vs

State of Haryana and others RESPONDENT

Date of Decision : 08-05-1990

Acts Referred:

Constitution of India, 1950 — Article 226
Haryana Public Moneys (Recovery of Dues) Act, 1979 — Section 3
State Financial Corporations Act, 1951 — Section 32G

Citation : AIR 1991 P&H 97 : (1991) 1 ILR (P&H) 58

Hon'ble Judges : J.V. Gupta, Acting C.J.;M.S. Liberhan, J

Bench : Division Bench

Advocate : P.C. Mehta and S.N. Saini, for the Appellant; N.K. Kapur, for the Respondent

Judgement

M.S. Liberhan, J.—The petitioner-Company challenged the recovery of loan amount by way of arrears of land revenue. A loan of Rs. 15.65 lacs was sanctioned on March 27, 1984 which was repayable in fourteen half-yearly instalments. The petitioner started the project but because of rise in prices of the machinery, it ran into difficulties. The petitioner failed to meet the demand for re-payment of the loan. A certificate for recovery of the loan amount was issued in pursuance to which the collector, Bhiwani attached the industrial unit of the petitioner. The petitioner challenged the said recovery in a civil suit and further sought an injunction restraining the respondents from recovering the amount. Temporary injunction was granted subject to conditions imposed by the learned trial Court, which order was affirmed in appeal. However, it was pointed out that the suit was being withdrawn as a preliminary objection was raised that the Civil Court had no jurisdiction to entertain and try the suit. The failure to repay the loan was attributed to the apathy and inaction of the Haryana Financial Corporation and it was stated that the unit had become sick because of the attitude of the Financial Corporation.

2. The petitioner challenged the vires of S. 32G of the State Financial Corporation

Act. It was urged that the recovery certificate had been issued without hearing the petitioner and had an opportunity been given the petitioner would have satisfied the Corporation for not adopting such a harsh method. Reference to the other provisions of the State Financial Corporation Act was made. The main challenge to S. 32G of the Act is that the Authorities could issue a certificate for recovery of amount for arrears of land revenue to the Collector under S. 32G without providing an opportunity of hearing or notice to the industrial concern. S. 32G as introduced in the Act by Central Act 43 of 1989 reads as under :

"32G : Recovery of amount due to the Financial Corporation as an arrear of land revenue which any amount is due to the Financial Corporation in respect of any accommodation granted by it to any industrial concern, the Financial Corporation or any person authorised by it in writing in this behalf may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to it, and if the State Government or such authority, as that Government may specify in this behalf is satisfied, after following such procedure as may be prescribed that any amount is so due, it may issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue."

3. The writ petition was filed as far back as on August 16, 1989 and recovery was stayed. A number of opportunities were given to the petitioner to settle the matter. Finally, on February 5, 1990, the counsel for the petitioner wanted time to approach the Financial Corporation for making arrangement for payment. It was made clear that in case no arrangement was made by March 3, 1990, the stay of recovery shall stand vacated. In spite of that, another opportunity was afforded but nothing substantial happened:

4. The learned counsel for the respondents refuted the submissions made by the counsel for the petitioner and contended that the recovery was being effected under the provisions of S.3 of the Haryana Public Moneys (Recovery of Dues) Act, 1979, and no action was being taken under S. 32G of the State Financial Corporation Act. The U.P. State provided under S. 3 of the U.P. Public Moneys (Recovery of Dues) Act, 1965 (25 of 1965) which is almost pari materia with the provisions of S.3 of the Haryana Public Moneys (Recovery of Dues) Act, 1979, a mode for speedy recovery of the dues, the vires of which were challenged almost on the same ground, viz., that the remedy is discriminatory.

5. In the Director of Industries, U.P. and Others Vs. Deep Chand Agarwal, , their Lordships of the Supreme Court while upholding the vires of the provisions of the Act observed as under (at page SC 804, AIR 1980) :

"The Act is passed with the object of providing a speedier remedy to the State Government to realise the loans advanced by it or by the Uttar Pradesh Financial Corporation. The State Government while advancing loans does not act as an ordinary banker with a view to earning interest. Ordinarily it advances loans in order to assist the people financially in establishing an industry in the State or for the development of agriculture, animal husbandry and for such other purposes which would advance the economic well-being of the people. Moneys advanced by the State Government have got to be recovered expeditiously so that fresh advances may be made from the State Government. It is with the object of avoiding the usual delay involved in the disposal of suits in Civil Courts and providing for an expenditious remedy, the Act has been enacted. It cannot, therefore, be said that there is no reasonable basis for the classification made by the statute and the classification does not have a reasonable relation to the object of the statute. It is no doubt true that there js no express provision in the Act containing guidelines. That, however, is not sufficient to hold that S. 3 of the Act confers arbitrary power on the State Government and makes a hostile discremination. An officer authorised by the State Government to issue the certificate is expected ordinarily to avail himself of the speedier remedy provided under the statute. The Act which is passed with the object of providing a speedier remedy itself provides sufficient guidance to the officer concerned as to when he should resort to the remedy provided by it."

6. Again, it was submitted that the situation has reached where the petitioner had become a sick unit because of the apathy and inaction of the Financial Corporation. We are afraid; this disputed question cannot be determined in writ jurisdiction.

7. No other point has been raised to interfere with the recovery of the amount by the State Financial Corporation, in exercise of writ jurisdiction.

8. The writ petition is dismissed with the above observations. There shall, however, be no order as to costs.

9. Petition dismissed.

