**(2006) 02 GAU CK 0044**

**In the Gauhati High Court**

**Case No :** Writ Petition (Civil) No. 2029 0/3999

Pradip Kumar Dutta APPELLANT

Vs

State of Assam and Ors. RESPONDENT

**Date of Decision :** 07-02-2006

**Acts Referred:**

Constitution of India, 1950 — Article 226, 226

**Citation :** (2007) 3 GLT 700

**Hon'ble Judges :** H.N.Sarma, J

**Bench :** Single Bench

**Advocate :** P.Roy, M.Das, D.Mazumdar, Advocates appearing for Parties

## Judgement

1. This is a classic example of arbitrary action and apathetic attitude of a public sector financial institution, a nationalized Bank, shown to the petitioner in releasing financial assistance as per socially benevolent scheme adopted by the Government. The petitioner is an educated unemployed youth and after passing the H.S.L.C. Examination in the year 1997, the petitioner could not prosecute further studies due to financial hardship and was availing for necessary, opportunity to be selfemployed. With a view to promoting economic justice to the people of the country as enshrined in the Constitution, as per the Constitutional scheme and directives, the Government of India adopted certain policies to provide selfemployment to needy people particularly, covering the rural mass of the country. In augmenting such process, the Government of India adopted certain suitable schemes out of which ''the Prime Minister''s Rojgar Yojana (PMRY) is also one of the same. The said scheme came into force with effect from 2nd October, 1993 commemorating the Gandhi Jayanti. As per the terms of the said scheme, the educated unemployed youth of age group of 1:8 and 35 years is entitled to avail a loan up to Rs. 1,00,000, on his case on being sponsored by the State Industries Department.

2. With a view to availing the aforesaid opportunities under the Prime Minister''s Rojgar Yojana, the petitioner approached the District Industries Centre, Kamrup

and submitted a scheme for the purpose of establishing a manufacturing unit of Ice/Milk Candy at Bishnupur, Guwahati. The respondent No. 2 after consideration of the feasibility of the scheme submitted by the petitioner was satisfied that the scheme would be a successful one if implemented properly and accordingly, recommended his case to the respondentBank for providing financial accommodation of Rs. 90,040. The respondent No. 2, vide letter No. DIC/K(IV) 117/95/2032 dated 30.11.1995 forwarded the application of the petitioner under the aforesaid Prime Minister''s Rojgar Yojana Scheme to the Branch Manager of the Kamar patty respondentBank. In the said letter, it is specifically stated that as per the approval of the Task Force Committee on scrutiny of the proposal under the Prime Minister''s Rojgar Yojana 199596, the case of the petitioner was recommended for providing him financial accommodation of Rs. 90,040 for establishing an Ice/Milk Candy manufacturing unit at Bishnupur. It is also stated therein that the scheme was found technically feasible and economically viable and requested the Branch Manager of the Bank to accord necessary sanction at the earliest. After the recommendation of the case of the petitioner to the Bank, as stated above, the petitioner was directed by the Manager of the Bank, vide letter dated 12.12.1995 to call the Manager of the Bank on or before the 1st week of January, 1996. By the said letter, the receipt of the recommendation from the respondent No. 2 has also been acknowledged by the Bank. Upon receipt of the said instructions from the Bank, the petitioner met the Branch Manager of the Bank in the 1st week of January, 1996 and on several occasions thereafter. But taking the plea one or the other, the Bank authority did not sanction the loan. The petitioner, in the meantime, also undergone necessary training programme as conducted by the District Industries Centre, Guwahati under the Prime Minister''s Rojgar Yojana in order to equip himself for the purpose of setting up the unit. Strongly enough, vide letter dated 6.8.1997, the Manager of the Bank intimated the respondent No. 2 that they have misplaced the necessary papers relating to the loan of the petitioner and requested the District Industries Centre to submit a duplicate copy thereof.; In compliance of the said request, the General Manager, District Industries Centre, vide letter No. DIC/K(IV) 117/9697/PMRY/Pt.ix/599798 dated 12.8.1997 forwarded a duplicate copy of the set of documents to the Branch Manager of the Bank for doing the needful. Thereafter also, the petitioner approached time and again the Bank authority who again exhibited similar treatment and ultimately, being disgusted with their negative attitude has approached this court by filing this writ petition for necessary orders.

3. The respondent No. 3, through its Manager, Guwahati Branch submitted an affidavitinopposition. The crux of the contention of the Bank authority as raised in their affidavitinopposition, inter alia, is that although the loan was provisionally sanctioned, the petitioner did not meet the bank authority within the validity period, i.e., within 31.12.1996 and the petitioner came to the Bank on 5.8.1997 and on scrutiny of the papers, it was found that the Trade License dated 12.4.1998 is in the name of the petitioner and another person, which is irregular.

 

4. I have heard Mr. D. Mazumdar, learned counsel appearing on behave of the writ petitioner and Mrs. M. Das, learned counsel for the State respondents. None appears on behalf of the Bank authority at the time of hearing.

5. The sanction of the scheme submitted by the petitioner by the District Industries Centre is not in dispute. It is also not in dispute that the scheme is not a viable one. The contention raised in the affidavitinopposition that the petitioner did not met the Bank authority within 31.12.1996 is hardly believable, more particularly, in view of the letter dated 6.8.1997 by which the Manager of the Bank wrote to the General Manager, District Industries Centre, Guwahati to provide a duplicate copy of the loan documents as original ones submitted to them have been misplaced. The specific statement of the petitioner as made in Para12 regarding his continuous visit to the Bank has not been denied in the affidavitinopposition.

6. Pleadings of the parties leave no manner of doubt to the fact that the proposal submitted by the petitioner for providing him suitable financial accommodation under the Prime Minister''s Rojgar Yojana scheme was found to be viable by the competent authority and it was forwarded with necessary recommendation to the Bank authority for providing him the loan. The loan under such scheme are provided by certain; specified Banks on certain arrangements and with a view to fulfill their obligations to help financially to the needy people and to invest in this industrially backward region of the country providing suitable financial accommodation. It is also an established fact that the Bank did not take the matter with due seriousness which is discernible from the fact that the documents submitted by the petitioner were misplaced by the authority for which a separate set of duplicate copy had to be obtained.

7. Thus, it is seen that the petitioner is suffering at the hands of the Bank people for getting the financial accommodation of Rs. 90,040 which was duly recommended by the competent authorities. The entire episode discloses callousness and negative attitude of the concerned staff of the Bank. Without dealing any further into the matter as to what might be the intention behind the delay dilly tactics played by the Bank and eventual nonsanction of the loan which is needed to be haunted in appropriate case, I leave this aspect herein this case.

8. It is true that the financial institutions used to advance the loan or to provide financial accommodation to any party to whom they find suitable and they have got ample discretion in refusing such financial accommodation. But such is not the case here. The loan of the petitioner has not been sanctioned, as the petitioner allegedly did not approach the Bank authority and met the Manager within the validity period. Now the question is what is the validity period ? The documents available on record do not disclose any such validity period. Even if there is any validity period, there is no bar in extending the same in view of the on going process of the scheme and the Prime Minister''s Rojgar Yojana has not been closed or abolished and is continuing till now. The Bank in question being a nationalized Bank is an ''authority'' within the meaning of article 12 of the

 

Constitution and it owes an obligation to act fairly, equitably and in a reasonable and transparent manner. The respondentBank has failed to discharge the said constitutional obligation in the instant case, nor any justifiable reason is forthcoming in their counter justifying their such action. The action of the respondentBank is nothing but arbitrary and illegal and it has failed to discharge its obligation as enshrined by law.

9. Mrs. M. Das, learned Government Advocate has submitted that the Bank authority normally is not entitled to refuse to sanction the loan which is sponsored or recommended by the District Industries Centre for setting up any unit under the Prime Minister''s Rojgar Yojana Scheme. It is further submitted by the learned Government Advocate that the said scheme is still continuing and an on going one.

10. In view of the aforesaid discussion, this writ petition is allowed. The Bank authorities namely, the Bank of India, Guwahati Branch shall take up the case of the petitioner for necessary sanction for granting financial accommodation as recommended by the District Industries Centre, Guwahati and shall disburse the same subject to the ob senance of necessary procedure applicable in such case. It is further observed that in case the Bank authority requires a Trade License in the name of the petitioner only for the purpose of sanctioning the loan, the petitioner is willing to provide the same as submitted by Mr. Mazumdar and that should not stand on the way in granting and disbursing the loan to the petitioner, provided that the petitioner is still willing to avail the same. However, in the name of observing formalities, the petitioner should not be harassed any more. The Bank authorities must act in a reasonable, fair and transparent manner.

11. With these directions and observations, this writ'' petition stands allowed awarding of cost of Rs. 3,000 (Rupees three thousand) only against the respondentBank payable to the petitioner. The entire exercise shall be completed by the Bank authorities within a period, not later than 30 (thirty) days from the date of receipt of a certified copy of this judgment and order.