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(1997) 11 PAT CK 0051

In the Patna High Court

Case No : C.W.J.C. No. 1829 of 1991 (R)

Premium Coke Manufacturing Co. (Pvt.) Ltd. APPELLANT

Vs

State of Bihar and Others RESPONDENT

Date of Decision : 11-11-1997

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (1999) 2 BLJR 931

Hon'ble Judges : Prasun Kumar Deb, J;Narayan Roy, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Prasun Kumar Deb, J.—Heard Mr. Biron Poddar, learned Counsel for the petitioner and learned Government. Advocate for the respondents.

2. By this writ application, the petitioner has prayed for issuance of a writ of mandamus commanding upon the respondents to provide capital Investment Subsidy (hereinafter to be referred to as ''the Subsidy'') as provided under the Bihar Industrial Policy, 1986 (hereinafter to be referred to as ''the Policy'') to the tune of 3,8,50,799/-.

3. The learned Counsel appearing on behalf of the petitioner submitted that in view of the Policy, the petitioner was entitled to get subsidy as it was a promise made by the State of Bihar. Learned Counsel further submitted that this being an ineontive, it would have been given to the petitioners Unit for its development and survival.

4. Now a counter-affidavit has been filed on behalf of the respondents wherein it has been stated that the policy as such as enumerated in the year 1986 is no more available to the petitioner by virtue of the operation of the notification of the State Government dated 21.2.1990 as contained in Annexure-B to the counter-affidavit. From base reading of Annexure-B to the counter-affidavit, it appears to us that the Subsidy was not made available to the Units which were

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shown in the notification''s list of the State Government issued from time to time as contained in Annexure-II. The petitioner''s Unit is a Coal and Coke Manufacturing Unit which has been mentioned in Item No. 11 of Annexure-II to the notification.

5. Besides all these questions, the question which falls for determination is as to whether the petitioner can claim the Subsidy as a matter of right. The question of grant of subsidy is by way of Incentive Policy and the petitioner has no right whatsoever to ask the State Government to provide such subsidies. Merely because a promise was made by the State of Bihar by a Policy of 1986, no right can be said to have accrued to the petitioner to claim by enforcing of his rights under Article 226 of the Constitution. The learned Counsel for the petitioner has not been able to show any statutory violation in not granting capital subsidy to the petitioner.

6. This is a general knowledge that the fiscal condition of the State of Bihar is not so healthy to provide subsidies to the units already set up in the State of Bihar. Fiscal policy, in our opinion, can be challenged from time to time seeing the financial condition of the State. The Apex Court in Arvind Industries v. State of Gujarat 1996 (1) PLJR 1 (S.C.), has also held that the Government is equally free to modify its industrial policy and grant from time to time and may withdraw or modify fiscal benefits from time to time. It is not disputed that the unit of the petitioner bad ever received any sort of subsidy out of 1986 policy.

7. For the reasons discussed above, we find no merit in this writ application. It is thus dismissed but without cost.

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