
(2016) 07 PAT CK 0003

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 2653 of 2014

Suresh Nandan Sinha

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 12-07-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 1 PLJR 580

Hon'ble Judges : Mr. Vikash Jain, J.

Bench : Single Bench

Advocate : Mr. Ranjeet Kumar Pandey, Advocate, for the Respondent No. 4; Mr. Navendu Kumar, Advocate, for the Respondent Nos. 1 to 3; Mr. Subodh Chandra Jha and Mr. Purusottam Prasad, Advocates, for the Petitioner

Final Decision : Dismissed

Judgement

Mr. Vikash Jain, J. (Oral) - The present writ petition has been filed for directing the respondent-National Horticulture Board (for short, "NHB") to release the second instalment of subsidy to the tune of Rs. 48,810/- together with Bank interest as also costs for delay in releasing the same; and for directing the Samastipur Kshetriya Gramin Bank (for short, "the Bank") to not return the subsidy amount already paid to it by NHB.

2. The short facts of the case, according to the petitioner, are that an LOI dated 16.07.2005 was issued in his favour by NHB. The petitioner was required to grow mango seedlings in about 5 acres of land. The total project amount was Rs. 4,84,050/- and the petitioner was given the facility of a loan of Rs. 1,21,000/- from the Bank, which was sanctioned on 13.01.2006. The project was required to be completed within a period of two years from the date of such sanction. NHB agreed to grant subsidy of Rs. 96,810/- under the scheme and the Bank was required to submit a report for completion of the project along with photographs of the mango orchard.

3. Learned counsel for the petitioner submits that the Bank duly inspected the project on 28.04.2007 and in due course sent its report of completion on 29.12.2007 to NHB. The first instalment of subsidy amounting to Rs. 48,000/- which was sent by NHB to the Bank on 24.03.2006, had been released to the petitioner on 18.07.2006. It is submitted that in view of the completion of the project as duly approved by the Bank in terms of its report dated 29.12.2007, the petitioner was entitled to the remaining amount of the subsidy. It is submitted that having paid the amount of Rs. 48,000/- as first instalment of subsidy, there was no justification for NHB to not make payment of the remaining amount of Rs. 48,810/- by way of second instalment of the subsidy.

4. Learned counsel for the respondent-NHB, on the other hand, disputes the fact of completion of the project by the petitioner. He invites attention to the letter of the NHB dated 24.03.2006 (Annexure-B to the supplementary counter affidavit) according to which the first instalment of Rs. 48,000/- was required to be kept by the Bank in a separate subsidy reserve fund account to be released to the individual beneficiary account only after completion of the project according to the guidelines. It also provided for inspection by NHB representative as and when required to evaluate the physical and financial progress of the project. It is pointed out that the letter dated 11.01.2007 (Annexure-A series to the counter affidavit of respondent no. 4) to the Bank, a copy of which was sent to the petitioner, stated that installation of a drip/sprinkler was essential and in absence of the same, the project would be treated as incomplete. In view of this letter, it is stated that the Bank had erroneously treated the project as complete without the drip/sprinkler being installed. It is further stated that an attempt by NHB to carry out inspection of the project was stonewalled by the petitioner as evident from his letter dated 20.11.2008 (Annexure-I). Further, the petitioner by his separate letter also 20.11.2008, admitted that drip/sprinkler had not been installed as the doing so would increase the cost of the project.

5. Learned counsel for the respondent-NHB also invites attention to its letter dated 24.01.2008 (Annexure-E) which required the Bank to submit various documents and information on 11 counts which was never complied with. In this view of the matter, NHB by its letter dated 02.05.2008 (Annexure-F) required the Bank to refund the amount of the first instalment of Rs. 48,000/- earlier paid to it.

6. Having heard the parties and on careful consideration of the materials available on record, this Court finds the writ petition devoid of any merit. It is not in dispute that the period for completion of the project was two years from the date of sanction of the loan by the Bank and such period expired on 12.01.2008. The NHB had already informed the petitioner as far back as on 11.01.2007 of the mandatory requirement of installation of drips/sprinklers. In view of the specific requirement by NHB in this regard and the failure of the petitioner to abide by such condition, the project could not be treated as completed in terms of the guidelines. At no point of time did the petitioner raise any objection to the

condition for installation of drip/sprinkler, rather he continued with the project without demur. This Court is of the view that if he was aggrieved by the requirement for installation of drips/sprinklers by NHB, he ought to have challenged the same, which he failed to do at the appropriate time, nor has he done so even in the present writ petition. Moreover, in terms of NHB's letter dated 24.03.2006 to the Bank enclosing the cheque of Rs. 48,000/- towards the first instalment of subsidy, the said amount ought not to have been released to the petitioner on 18.07.2006 much before the Bank sent its completion report on 29.12.2007, which was in violation of the terms set out by NHB as the same was required to be retained by the Bank in its separate account until the completion of the project.

7. Upon specifically being asked to reply on these two aspects of the matter, namely, first - the reasons for release of the first instalment of subsidy prior to completion of the project, and second - the circumstances in which the Bank reported completion of the project despite the petitioner's failure to install the requisite drips/sprinklers/irrigation equipment, learned counsel for the Bank did not have any satisfactory reply to offer.

8. In the above circumstances, this Court does not find any reason to interfere in the matter. The writ petition stands dismissed.