

**(2023) 10 PAT CK 0047**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No.15897 Of 2022

Vidyawati Kumari

APPELLANT

Vs

State Of Bihar

RESPONDENT

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**Date of Decision :** 17-10-2023

**Acts Referred:**

Constitution Of India, 1950 — Article 226

**Citation :** (2023) 10 PAT CK 0047

**Hon'ble Judges :** A. Abhishek Reddy, J

**Bench :** Single Bench

**Advocate :** Abhash, Subhash Pd. Singh

**Final Decision :** Dismissed

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## **Judgement**

1. Heard learned counsel for the parties.

2. The present Writ Petition is filed for the following relief(s) :

(i) To issue an appropriate order/s direction/s including a writ preferably in the nature of CERTIORARI for quashing the Memo NO. 1428 dated 20-06-22 issued by Principal Secretary, Industry Department, Bihar, Patna whereby and where under representation filed by the petitioner has been rejected.

(ii) To quash the letter No. 263 dated 19-08-2021 issued from the office of the General Manager, District Industries Centre, Buxar (Hereinafter referred to as Respondent No. 04) to the petitioner whereby and where under she has been directed to return a sum of rs. 2, 50,000/- sanctioned through account under the Chief Minister SC/ ST entrepreneur scheme for opening a business of carpentry wooden, furniture which has not been utilized with in time and hence amount in question was directed to deposit in the account of Bhar Start-up Fund Trust, Patna bearing Account No. 39442695081 SBI, Bailey Rad, Patna I.F.S.C. code SBIN0006379 failing which action shall be taken under Public Demand Recovery Act.

(iii) To quash the letter No-109 dated 08-03-2021 issued from the office of respondent No. 4 to the petitioner whereby and where under petitioner has been directed to deposit First installment within a week in the account of Bihar Start-up Fund trust, Patna and inform the office failing which amount shall be recovered under the Public Demand Recovery Act.

(iv) to quash the letter No. 250 dated 17-07-20 issued from the office of Respondent No. 4 issued to the petitioner whereby and where under petitioner has been directed to submit utility certificate of First installment under Chief Minister SC/ST Entrepreneur scheme and open the current bank account within time limit failing which her candidature shall be cancelled followed by recovery of amount financed to petitioner.

(v) To direct respondent NO. 4 to sanction rest of amount of 2nd and 3rd installments amounting to Rs. 7,50,000/- in favour of the petitioner for establishment of plant and machineries and issue utility certificate accordingly.

(vi) To any other relief/s to which the petitioner is entitled in the facts and circumstances of the case.

3. Learned counsel for the petitioner has stated that the petitioner had applied under the scheme floated by the Government of Bihar for extending interest free loans to all the entrepreneurs belong to the Scheduled Castes and Scheduled Tribes. That under the Scheduled Castes and Scheduled Tribes entrepreneurs scheme an amount of Rs.10,00,000/- is extended to the said entrepreneurs for starting small scale industry. The petitioner has also applied under the said scheme on 09.08.2018 for starting a carpentry and wooden furniture workshop. Thereafter, on the application made by the petitioner an amount of Rs.2,50,000/- was paid as a first installment out of the total sanctioned amount of Rs.10,00,000/-. The workshop was setup in the name of Anannya Furniture, situated at village Hukhan, P.O. Sondhila, District Buxar. It is stated that though the petitioner had submitted vouchers and sought release of the second installment of Rs.5,00,000/-, the same has not been done till date the balance amount of Rs.7,50,000/- has not been released. The petitioner has received a notice, dated 17.07.2020, vide Letter No. 250 from the General Manager, District Industry Center, Buxar, directing her to open a current account in the name of the petitioner and the petitioner in compliance of the said letter opened a current account in the Central Cooperative Bank Limited, Ara Branch, Ara. Though the petitioner has been making several representations to the concerned officials for releasing the balance installment of Rs.7,50,000/- out of the total sanctioned amount of Rs.10,00,000/-, the authorities have not issued any orders nor released the said amount. The petitioner had received a notice, dated 19.08.2021, directing her to return the first installment amount of Rs.2,50,000/- for not furnishing the utility certificate and not utilizing the sanctioned amount for the purpose for which it is sanctioned, failing which necessary action would be taken under the Public Demand Recovery Act. Thereafter, the petitioner has approached this Hon'ble Court vide C.W.J.C. No. 17157 of 2022 and this Court

vide order, dated 22.01.2022, has passed an order directing the petitioner to make a representation to the authorities concerned and on such representation being made authorities were directed to consider the same. In compliance of the above order, the petitioner has submitted a representation, however, the said representation was rejected in a mechanical manner. Learned counsel has stated that the petitioner having been found as an eligible candidate was sanctioned an amount of Rs.10,00,000/- and the first installment of Rs.2,50,000/- was also sanctioned in favour of the petitioner. The petitioner has utilized the said amount of Rs.2,50,000/- by setting-up on unit and started production. Learned counsel has drawn the attention of the Court to the bills submitted by the petitioner for purchase of machinery and for establishment of the unit. Learned counsel has stated that the action of the authorities in directing the petitioner to submit a utility certificate for the amounts of Rs.2,50,000/- is without any legal basis and there is no requirement under the said scheme for submitting any utility certificate. Learned counsel has stated that the petitioner had made a representation duly enclosing the purchase receipts evidencing the purchasing of the machinery and the same was not taken into consideration by the authority concerned. The authorities without considering the documents submitted by the petitioner have rejected the representation in a mechanical manner. Further, it is stated by the learned counsel for the petitioner that even before the disbursal of the second installment the question of submitting any utility certificate does not arise. That the action of the authorities in demanding the re-payment of first installment is contrary to the provisions of the scheme. The scheme provides for re-payment of the loan amount only after a period of one year from the date of disbursal of the third installment, but, not before that. Learned counsel has therefore prayed this Hon'ble Court to allow the present Writ Petition.

4. Per contra, the learned counsel appearing on behalf of the respondents has stated that the petitioner has not utilized the amount of Rs.2,50,000/- which was released in her favour for the purpose for which it was sanctioned. That on an inspection of the unit set-up by the petitioner, it was found that the petitioner has misutilized the funds and the vouchers which were submitted by the petitioner for purchase of the equipments were not found correct. That in spite of putting the petitioner on notice directing her to submit the utility certificate for the first installment, the petitioner has failed to do so. The authorities left with no other option had to necessarily cancel the selection of the petitioner and the petitioner was directed to re-pay the 1st installment. That pursuant to the direction of this Hon'ble Court the Selection Committee has gone through the relevant records and came to the conclusion that the petitioner has not followed the terms and conditions of the sanctioned letter and violated the scheme. Learned counsel has, therefore, prayed this Hon'ble Court to dismiss the present Writ Petition.

5. A perusal of the impugned order reveals that the grant made to the petitioner has been cancelled and she has been directed to refund the loan amount of Rs.2,50,000/-. Under the scheme floated by the Government the petitioner has

been selected for a term loan/grant whereby she is entitled to 50% of the cost of the project as loan which is interest free subject to the condition that the loan does not exceed Rs.10,00,000/-. As per the terms of the said scheme the recovery is after a period of one year after a third installment is paid to the applicant. The grounds on which the impugned order of cancellation of grant is passed is that the petitioner has not utilized the loan amount of Rs.2,50,000/- for the purpose for which it was given and also that she has not utilized the amount within one year from the date of sanction. Further, it is also stated that the petitioner in spite of being put on notice to submit a utility certificate has not done so.

6. The petitioner has earlier approached this Hon'ble Court vide C.W.J.C. No. 17157 of 2021 and this Court while declining to interfere with the order passed by the authority has directed the petitioner to make a representation to the authorities, pursuant to which the petitioner has made a representation on 13.04.2021. In the representation the petitioner has taken a stand that though she has applied for utility certificate the concerned officer was asking a bribe of Rs.15,000/- for giving the said utility certificate. Though the petitioner has been making a complaints about the demand of bribe by one of the officers concerned for giving a utility certificate no enquiry has been conducted by the authorities concerned for the reasons best known to them and no action was taken on the said complaint. Pursuant to the orders of this Court on the representation made by the petitioner the official respondents have passed the impugned order whereby the request made by the petitioner for sanctioning the balance amount of Rs.7,50,000/- has being negatived and the grant has been cancelled and the earlier orders were reiterated. Once the Committee has come to the conclusion that the petitioner has not utilized the amount for which they were supposed to be utilized and within the time period stipulated as per the terms of the scheme, this Court is not inclined to substitute its wisdom to that of the decision taken by the authorities. Whether the petitioner has utilized the amount for the purpose for which it was allotted or not, whether she has mis-utilized the funds sanctioned are all disputed questions of fact which cannot be gone into under Article 226 of the Constitution of India. The contention of the counsel for the petitioner that the authorities do not have right to ask for submission of the utility certificate is misplaced and not correct. Once the loan is disbursed the authorities are bound to verify whether the loan amount is being utilized properly or not and for the purpose for which it is sanctioned. The order passed by the Committee is a well reasoned order and does not call for any interference. Therefore, this Court is not inclined to interfere with the order passed by the Principal Secretary, Industry Department, Bihar, Patna (Respondent No. 1) vide Memo No. 1428 dated 20.06.2022. This Court does not find any merit in the present CWJC to interfere with the orders passed by the authorities and the Writ Petition is accordingly, dismissed.

7. However, having regard to the fact that the petitioner is a lady and the loan amount was granted in the year 2019, the petitioner is obligated to re-pay the

loan amount as per the terms and conditions of the scheme, the petitioner has to repay the loan amount in installments after one year from the date of disbursal of the 3rd installment. However, in this case the grant itself is cancelled and the petitioner was not paid the 2nd or 3rd installments. The petitioner is directed to make a representation to the authorities for repaying the loan amount in installments within two weeks from the date of this order and on such representation being made the authorities shall consider the representation sympathetically and grant installments.

8. With the above directions, the Writ Petition stands dismissed.