

(2003) 06 JH CK 0072
In the Jharkhand High Court
Case No : W.P.C. No. 3437 of 2001

Weldon Vyapar Private Ltd.

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 03-06-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 3 JCR 95

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : S.L. Agarwal, for the Appellant; Ravi Kant, JC to AAG, for the Respondent

Judgement

M.Y. Eqbal, J.—In this writ application the petitioner seeks a direction upon the respondents to disburse the capital investment subsidy in terms of the policy decision of the Government.

2. The case of the petitioner is that it being attracted by the Industrial Policy of the Bihar Government announced in 1993 took a decision to set up an industry. Under the said Industrial Policy 1993 one of the incentive was that the Industries coming Into production between 1st April 1993 and 31st March 1998 will be entitled to subsidy on the capital investment to the tune of 15% or 5 Lacs whichever is less on the investment made in the plant and machinery. The petitioner established an industry and the said industry was registered as Small Scale Industry with the Industries Department. According to the petitioner the production of steel cast iron and sheets was started from 28.12.1997. The petitioner applied for disbursement of capital subsidy to the tune of Rs. 2,26,603/- being 15% of the total investment. The said application was received by the respondents on 23.9.1998 but nothing was done and it was only by letter dated 8.2.1999 the Director of Industries called for application from the General Manager, District Industries Centre, Hazaribagh with his recommendation. The petitioner was then called upon by letter dated 8.6.1999 to submit certain

documents which was duly submitted. It is contended that since then the petitioner has been repeatedly requesting the respondents* for the release of capital subsidy but the same has not been released.

3. The respondent No. 4 General Manager, District Industries Centre, Hazaribagh in his counter affidavit has stated that Industrial Policy 1993 was effective from 1.4.1993 to 31.3.1998 and in between another Industrial Policy 1995 was also announced by the Government and was made effective w.e.f. 1.9.1995. According to 1995 Industrial Policy those units who started their actual commercial production after 1.9.1995 but had made substantial fixed capital investment prior to 1.9.1995 will have the option to avail a package of Incentive provided in the Industrial Policy 1993. It is stated that the claim of the petitioner was thoroughly examined and it was found that the land was purchased by the petitioner unit on 25.8.1997 and permanent registration was granted on 31.12.1997 and the date of production was confirmed on 28.12.1997. The petitioner unit obtained the electrical connection after 1.9.1995. The petitioner unit therefore come under the purview of 1995 policy. The respondents further case is that the petitioner unit is completely closed and even electrical connection has been disconnected. Under the Industrial Policy 1995 there is no provision of any type of subsidy and entitlement of incentive.

4. I have heard Mr.S.L. Agarwal, learned counsel appearing for the petitioner and the learned JC to Additional Advocate-General.

5. The petitioner on the one hand claims incentive under the Industrial Policy 1993 where as on the other hand the case of respondent No. 4 namely the General Manager District Industries Center, Hazaribagh is that the petitioner unit come under the purview of 1995 policy on the ground that the unit of the petitioner was established only after 1.9.1995 and permanent registration was granted thereafter on 31.12.1997 in which the date of production was confirmed on 28.12.1997. According to this respondent, the petitioner is not entitled to any incentive under 1995 Industrial Policy.

6. In a separate counter affidavit filed by the Director Industries, Government of Jharkhand it is stated that after bifurcation of State on 15.11.2000 the liability, if any, will be the liability of the erstwhile State of Bihar and the petitioner is not entitled to any incentive from the State of Jharkhand.

7. In view of the contradictory affidavits filed by respondent No. 1 to 4 it is desirable that the claim of the petitioner may be looked into afresh by respondent No. 1, Director Industries Department, Government of Jharkhand. He is directed to decide firstly whether the petitioner is entitled to any incentive or subsidy under the two Industrial Policies of 1993 and 1995 and secondly who shall pay the said incentive to the petitioner.

8. This writ application is therefore, disposed of with a direction to respondent No. 1 to decide the matter within a period of two months from the date of receipt of copy of this order after giving opportunity of hearing to the petitioner.