



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 3872/2005

India Image E-145, 146 Sitapura Industrial Area, Jaipur A
Registered Partnership Firm Through Its P, K-4, Keshav C-
Scheme, Jaipur

----Petitioner

Versus

1. State Of Rajasthan Through Secretary Of Department Of Industries, Secretariat, Jaipur
2. District Industries Center, Jaipur Through General Manager, Directorate Of Industries, Govt. Of Rajasthan, Udyog Bhawan, Jaipur
3. Sub Divisional Officer, Jaipur Ii Collectorate, Jaipur

----Respondents

For Petitioner(s) : Mr. Jai Sharma

For Respondent(s) : Mr. Devesh Sharma, Dy.GC

HON'BLE MR. JUSTICE AVNEESH JHINGAN

Judgment

18/09/2024

1. This petition is filed seeking setting aside the communication letter dated 07.08.2003 issued by General Manager, District Industries Centre, Jaipur (hereinafter referred to as "General Manager") directing deposit of the subsidy amount of Rs.10,83,400/- (wrongly typed as Rs.10,03,400 in Annexure 7). The recovery notice in the Land Revenue Act is also under challenge.

2. The brief facts are that the petitioner set up an unit of small scale industry for manufacturing of Readymade Garments. The unit was registered with District Industry Centre, Jaipur. The unit



was set up initially in Keshav Path, C Scheme, Jaipur. Later on, petitioner purchased a plot in Sitapura Industrial Area, Jaipur and set up a factory. On 19.01.1997, the petitioner made an application for subsidy provided by the State Government under the State Capital Subsidy Scheme for New Industries 1990 (hereinafter referred to as 'Scheme'). The petitioner was sanctioned an amount of Rs.10,83,400/- in the meeting of the District Level Committee held on 29.09.1997 and the subsidy was disbursed. The petitioner received letter dated 11.03.1999 from General Manager stating that as per the Auditors the subsidy was wrongly paid to the petitioner and same should be refunded along with interest. The objection of the audit was that subsidy could have been granted only to existing factory whereas the petitioner has shifted the factory from C Scheme to Sitapura Industrial Area. The petitioner responded stating that the old machinery was having worth of Rs.80,000/- was shifted to the new factory premises and petitioner had invested Rs.52,00,000/- in the new machinery. The case set up was that the Note (i) of Clause (iv)(c) (3) of the Scheme was not applicable in the facts of the present case.

3. After almost three years, the communication letter dated 07.08.2003 was addressed to the petitioner directing that as per the Auditors the subsidy amount is recoverable and the amount be deposited within three months and on failure to do so, the recovery proceedings shall be initiated under the Land Revenue Act. Notice dated 25.04.2005 for recovery under land revenue was issued, hence the present petition.



4. Learned counsel for the petitioner submits that the recovery proceedings have been initiated only on the basis of audit objection. There is no order passed recalling the subsidy.

5. Learned counsel for respondents submits that a show cause notice was given prior to issuance of the communication and subsidy was wrongly granted in violation of the provisions of the scheme.

6. A show cause notice was issued to the petitioner for recovery of the subsidy amount and the sole basis was the audit objection. The petitioner responded to the show cause notice giving the factual possession and that the subsidy was granted as per the scheme. Neither response of the petitioner was considered nor an order for recalling of subsidies was passed by the respondents.

7. Communication dated 07.08.2003 was addressed to the petitioner to deposit the subsidy amount within three days, otherwise, the recovery would be made under the provisions of the Land Revenue Act. The communication dated 07.08.2003 clearly indicates that the recovery was being made for the reason that as per the Auditors, the subsidy could not have been granted.

9. It is a settled law that a Quasi Judicial Officer has to pass a reasoned order. In the case in hand, no order has been passed by the General Manager in pursuance to the show cause notice issued and directly the recovery proceedings were initiated.

10. The impugned notice dated 25.04.2005 initiated recovery proceedings under the Land Revenue Act is quashed and matter is remitted to General Manager to proceed in pursuance to the show cause notice dated 07.08.2003 in accordance with law. In order to





avoid further delay, let the petitioner through the representative appear in the office of General Manager on 17.10.2024 at 11 PM.

11. The writ petition is disposed of accordingly.



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(AVNEESH JHINGAN),J

Whether Reportable: **Yes**