

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3369 of 2011

M/S PATNA POLSON PRIVATE LIMITED A company registered under the Companies Act 1956 having its registered office at Digha Ghat, P.S.- Digha, District- Patna through its Managing Director Shri Krishna Kumar Yadav, S/o Late Mahabir Yadav R/o Polson Model Dairy , P.S. Digha, District- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR through Director, Department of Industries, Govt. of Bihar, Patna
2. Bihar State Credit and Investment Corporation Limited, Fourth Floor, Indira Bhawan, Ram Charitra Singh Path, Patna
3. The Managing Director, Bihar State Credit and Investment Corporation Limited, Fourth Floor, Indira Bhawan, Ram Charitra Singh Path, Patna
4. The Manager OTS, Bihar State Credit and Investment Corporation Limited. Fourth Floor, Indira Bhawan Ram Charitra Singh Patna, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Saket Tiwary, Advocate

For the Respondent/s : Mr. Sanjay Kumar, AC to GP 17

For the Respondent BICICO: Mr. Kumar Abhimany Pratap, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL JUDGMENT

Date : 06-03-2024

1. Heard the parties.

2. The petitioner has prayed for a direction to the respondent / BICICO to issue “No Dues” certificate to the petitioner-company.

3. The above mentioned company was financed by Bihar State Credit & Investment Corporation Ltd. (in short “BICICO”). The OTS Scheme 2006 was floated by the BICICO



and the petitioner applied under the “non commissioned” category. As per the OTS Scheme 2006 a “non commissioned” unit is defined as a unit, though complete in many respect, has even gone in for trial run, but could never go on for commercial production.

4. Learned counsel for the petitioner submits that pursuant to the application of the petitioner for settlement of the term loan amount of Rs. 20 lakh under the OTS Scheme 2006, the BICICO sent a letter dated 09.06.2006 informing the petitioner that the petitioner unit has been found tentatively falling under the category of “non commissioned” unit of the OTS Scheme 2006. The estimated OTS amount under the above category has been worked out at Rs. 23.52 lakh.

5. The petitioner accepted the offer made by BICICO and deposited a sum of Rs. 21.52 lakh out of the settled amount of Rs. 23.52 lakh because as per the petitioner a sum of Rs. 2 lakh was earlier deposited in the earlier OTS Scheme 2004. Request was made by the petitioner to adjust that amount against the total settled amount under the OTS Scheme 2006 of Rs. 23.52 lakh. Since the request of the petitioner was not accepted, the BICICO issued a letter dated 15.10.2008 requiring the petitioner to deposit a further sum of Rs. 2 lakh and the petitioner



accordingly paid a sum of Rs. 2 lakh on 16.10.2008 by way of bank draft no. 845736/- dated 16-10-2008. The OTS Scheme 2006 under the “non commissioned” category has been accepted by the BICICO the moment the petitioner has paid the entire amount demanded by the BICICO and the same was accepted by them. When the petitioner demanded “No Dues” certificate, the respondent / BICICO refused to issue “No Dues” certificate on the ground that the petitioner along with the OTS form did not submit the certificate of “non commissioned” unit granted by D.I.C. / I.A.D.A.

6. Learned counsel for the petitioner pointed out to the information given by D.I.C., Patna annexed at Annexure- 6 in which it has been mentioned that D.I.C. does not give certificate declaring industrial unit as “non commissioned” unit.

7. The BICICO also tried to get a certificate from D.I.C. and sent request letter to the D.I.C. vide letter dated 13.01.2010 and subsequent letters of different dates but no certificate regarding “non commissioned” unit of the petitioner- unit was granted by the D.I.C. in favour of BICICO also.

8. Learned counsel for the petitioner relies upon a judgment reported in 2006(4) PLJR 92 Eastern Food Industries Pvt. Ltd. vs. The Bihar State Credit and Investment Corporation



Ltd.; M/s Chandawat Udyog (Cylinder) Ltd. Vrs. The Bihar State Credit & Investment Corporation & Ors. passed in C.W.J.C. No. 104 of 2006 and M/s Hotel Nanaksons Pvt. Ltd. Versus The Bihar State Credit & Investment Corporation Ltd. & Ors. passed in C.W.J.C. No. 11244 of 2006.

9. Learned counsel appearing for the BICICO submits that as per the OTS Scheme 2006 the petitioner was required to furnish the certificate regarding “non commissioned” unit granted by D.I.C. / I.A.D.A.

10. Since the request of the petitioner under OTS Scheme 2006 was allowed tentatively as “non commissioned” unit, therefore, without the petitioner having produced the certificate granted by D.I.C. or I.A.D.A., the BICICO is not in a position to issue “No Dues” certificate in favour of the petitioner.

11. I have heard learned counsel for the parties and have gone through the materials on record. It is not disputed that the BICICO came out with the OTS Scheme 2006. The petitioner applied under the scheme under “non commissioned” category and according to the petitioner the unit never went in commercial production. The BICICO after verifying and examining the request of the petitioner allowed the settlement of the term loan amount under the OTS Scheme putting the



petitioner under the “non commissioned” category. There was no misrepresentation on the part of the petitioner and it is also not the case of the BICICO that petitioner misrepresented his category. The total settled amount Rs. 23.52 lakh was paid by the petitioner and was duly accepted by BICICO without any objection and /or demur. The BICICO only insisted that the petitioner should produce the “non commissioned” unit certificate granted by D.I.C. From the record it is evident that D.I.C. has refused to grant any declaring certificate regarding “non commissioned” unit. Insofar as the I.A.D.A. is concerned, according to the petitioner it grants certificate only when the unit is running on the land allotted by I.A.D.A. Once BICICO has accepted the entire settled amount of Rs. 23.52 lakh, it cannot refuse to grant ‘No Dues’ certificate to the petitioner on the ground that the category under which the petitioner-company was put in is not supported by any certificate. Accordingly, the judgment relied upon by learned counsel for the petitioner fully applies in this case also.

12. In the result, I direct the BICICO to issue “No Dues” certificate in favour of the petitioner within a period of one month from the date of receipt / production of a copy of this order.



13. With the aforesaid observation and direction, the application is disposed of.

praful/-AFR

(Anil Kumar Sinha, J)

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	14-03-2024
Transmission Date	NA

