

IN THE HIGH COURT OF MADHYA PRADESH

AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE HIRDESH

WRIT APPEAL No. 1102 of 2020

*THE STATE OF MADHYA PRADESH*

*Versus*

*M/S GODAVARI NUTRIFOODS PVT. LTD.*

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**Appearance :**

*Shri Ankur Mody – Additional Advocate General for the appellant/State.*

*Shri Tej Sing Mahadik – Advocate for the respondent.*

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**JUDGMENT**

**(Delivered on 16<sup>th</sup> Day of June 2025)**

***Per: Justice Anand Pathak***

Present writ appeal has been preferred by the appellant under Section 2(1) of the Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 being crestfallen by the order dated 14.08.2019 passed in Writ Petition No.5950/2016, whereby the petition preferred by the respondent M/s Godavari Nutrifooods Pvt. Ltd. (petitioner in the writ petition) has been allowed and the appellant (respondent in the writ petition) is directed to consider the case of the petitioner for grant of subsidy.

2. For appreciating the dispute, following dates and events are relevant, which are as under :-

<b>Date</b>	<b>Events</b>
28.08.2012	The National Mission on Food Processing (NMFP) was launched by the Ministry of Food Processing Industries, Government of India, in the year 2012 and was operative for the 12 <sup>th</sup> Five Year Plan period i.e. 2012-2017. Under the mission, the States were to sanction the proposals of grant-in-aid to the food processing units set up in their respective states. The sharing pattern was 75:25 i.e. the Ministry of Food Processing Industries was to contribute 75% of the amount of grant-in-aid and the states were required to contribute the rest 25%.
2012	Based on the National Policy, the State of Madhya Pradesh formulated the Madhya Pradesh Agri-Business and Food Processing Policy 2012. Clause 2.2.3 of the aforesaid policy deals with Capital Subsidy. Further Clause 2.2.14 stipulated that this scheme would remain in force till 30.11.2015
12/09/13	State of Madhya Pradesh by a Notification constituted a State Level Empowered Committee for examining, inquiring and scrutinizing proposals for grant of subsidy. This notification stated that this Committee would meet at least 4 times in one financial year.
29.05.2014	Relying on the NMFP scheme of the Government, the respondent took land on lease from the State of M.P. and paid the sum in toto as its premium Rs.71,63,720/- (Rupees Seventy One Lac Sixty Three Thousand Seven Hundred Twenty).
09/03/15	Based on the said National Policy, the respondent herein established its food processing unit by raising money through banks. The respondent fell within the category of units which were entitled to a subsidy of Rs.50.00 Lakhs. The respondent further sent its application on 09.03.2015 for sanction of subsidy under the Scheme.
10/04/15	The Ministry of Food Processing Industries issued a notification regarding de-linkin of Centrally Sponsored Scheme of National Mission on Food Processing (NMFP) from Central Government support w.e.f. 01.04.2015. However, the Central Government transferred its entire

	subsidy share before such date to the States leaving the States to decide on the future of the subsidy policy.
19.05.2015	The State of M.P. issued the impugned communication referring the letter dt.27.03.2015 of Secretary, Govt. of India, rejecting the application of the respondent on the ground that since the Central Government had de-linked the scheme, no such subsidy could be granted now.
22.09.2015	The State of M.P. issued notification, wherein it was stated that 164 projects, whose proposals have been received till March 2015 under the NMFP, are under consideration with the State Government.
22.09.2015	The respondent being aggrieved by the unjust actions of the State authorities, sent a detailed representation to the Prime Minister of India requesting early release of grant-in-aid under the Policy.
29.10.2016	Being aggrieved by the in-action of the appellant and Union of India, respondent preferred a writ petition bearing W.P.No.5054/2016 before the High Court of M.P. Bench Gwalior seeking quashing of letter/communication dt.19.05.2015 so also issue directions to the Union of India and State of M.P. Issue grant-in-aid of Rs.50.00 Lakhs to the petitioner under the NMFP scheme.
14.08.2019	Learned Writ Court allowed the Writ Petition and directed the State Government to organize a meeting of the State Level Empowered Committee for reconsideration of the case of the petitioner and extend the benefit of subsidy of the scheme to it if there is no other legal impediment.

3. Submission of the petitioner before the writ court was that he invested around Rs.700 Lacs (Rupees Seventy Crores) of money in the beginning taking into consideration the scheme launched by the State Government wherein subsidy was to be given. Therefore, government is bound by the principle of promissory estoppel. Half of the amount was invested in the installation of the machines. Application was filed well within time i.e. on 09.03.2015 when the scheme was admittedly in force. The de-linking order of

the Central Government was effective w.e.f. 01.04.2015. Therefore, petitioner was entitled to get the benefit and de-linking of the scheme can not be applied retrospectively.

4. It is further submitted that Clause 2.2.3 of the policy dt.28.08.2012 (Annexure P/2 of the writ petition) as promulgated by Govt. of India, Ministry of Food Processing Industry, makes it clear that once conditions as mentioned in the said clause and other relevant clauses are fulfilled then industry was entitled to get the benefit of subsidy. Here, petitioner industry fulfilled all the eligibility criteria as required. Besides that, when policy was in vogue till 31.03.2015, then rejection of the application of the petitioner on the ground that meeting was held on 09.03.2015, whereas application dt.09.03.2015 moved by the petitioner was received by the respondent/State on 12.03.2015, appears to be erroneous. Till 31.03.2015 another meeting could have been held. Minimum meetings (four in numbers) were required to be held and there was no ceiling over more number of meetings to be held. Therefore, meetings could have been held more than four times in one financial year.

5. Contentions of the State was that State Level Empowered Committee was constituted for examining, inquiring and scrutinizing the proposals. As per Schedule 4, meetings of the committee were held in financial year 2014-15 and the last meeting took place on 09.03.2015. Since the application suffered from delay and laches, therefore, it could not be processed.

6. Union of India submitted that liberty was given to the State Government to continue with the policy from its own fund and resources w.e.f. 01.04.2015. The said scheme was de-linked from central sponsorship w.e.f. 01.04.2015 based on the recommendations of the 14<sup>th</sup> Finance Commission.

7. After hearing the rival submissions, Writ Court allowed and disposed of the petition with directions to the respondents to consider the case if the petitioner company fulfills other requirement.

8. Learned counsel for the appellant as well as respondents advanced arguments at length.

9. Counsel for the appellant (respondent in the writ petition) raised the point of delay and laches and de-linking of central sponsored scheme w.e.f. 01.04.2015.

10. So far as the impugned action of the appellant/State is concerned, from the document filed as Annexure A/2 with the writ appeal, it appears that meeting of the State Level Empowered Committee was held on 09.03.2015 but the order was passed on 18.03.2015 by Director, Horticulture and Mission Director, National Mission on Food Processing. Said order includes minutes of meeting dt.09.03.2015. Therefore, at the time when the order was passed, the application dt.09.03.2015, which according to the appellant/State was received on 12.03.2015, was in fact available for consideration before the committee to decide, however, it appears that same got ignored.

12. Be that as it may.

13. In the present case, it is not the case of the appellant that petitioner is not entitled and qualified to receive subsidy but is based upon the fact that committee held its meeting prior to receipt of application of the petitioner i.e. 12.03.2015. As per own contentions of the petitioner, the petitioner established its unit within the period, in which scheme was in vogue. Committee could have held the meetings more than four times in a year because as per circular dt.12.09.2013 of State Govt., State Level Empowered Committee, which was to look after effective implementation of national mission on food processing, could held minimum four meetings in a year. No outer limit had been prescribed. Therefore, even after 09.03.2015 another meeting could have been held if case of the petitioner deserved consideration.

14. Whether petitioner established food processing unit when the scheme was in vogue and if the scheme was de-linked from central sponsorship, then State Govt. could have continued with the scheme from its own available resources and whether the petitioner was entitled to get same benefits, are some questions, which are not being decided yet. Similarly, aspect that if central government de-linked the scheme, then whether the State Govt. can continue with the scheme on its own available resources is another question, which requires consideration but escaped consideration from the State Govt. All these aspects are required to be considered by the State Level Empowered Committee. Therefore, learned Writ Court caused no illegality and error in

remanding the matter back to the committee for re-consideration. Committee may look into it holistically and reach to the conclusion whether the petitioner is entitled for the subsidy and if 'yes', to what extent under any State sponsored scheme if existing. State Govt. shall also have to look into it whether first come first serve (फ़ले आओ फ़ले पओ), as mentioned in the scheme itself, holds ground and in what manner. These questions are required to be answered.

**15.** Learned Writ Court has discussed in concluding paragraphs about this aspect in detail. Relevant extract of discussion is as under :-

14. It is not a case where the continuation of the scheme is being claimed by the petitioner as a matter of right, rather the dispute raised with respect to the legitimate claims of the petitioner with the NMFP Scheme was well in force. Once the Government has agreed to extend the benefits of subsidy and pursuance to the same an industrial unit is being developed by the petitioner after making huge investment till the scheme is being continued by the Government. The Government is bound to extend the benefits of the subsidy declared under the Scheme by the Government if the industrial unit is fulfilling all the conditions. Even otherwise in the present case 75% of the subsidy which is being claimed by the petitioner falls into the share of the Central Government, for which the Central Government has already deposited their part of share with the State Government prior to de-linking of the scheme. Thus, the State Government cannot absolve from his liabilities from extending the benefits of subsidy to the petitioner only on the ground that application was

not received well in time, but was received after the 4th meeting of the State Level Empowered Committee. It is not a case of the State Government that they have not received any amount from the Central Government in terms of the scheme, therefore they are not in a position to extend the benefit, rather the State Government has only taken a stand regarding receipt of application after the 4th 17 W.P. No.5054/2016 meeting which was held on 9.3.2015 and application is said to be received 12.3.2015, but the facts remain that the Scheme was de-linked by the Central Government w.e.f.1.4.2015, therefore the State Government was under an obligation to consider the application for grant of benefits of subsidy to the petitioner.

15. In view of the facts and circumstances of the case, State Government is directed to reconsider the case of the petitioner for grant of benefit of NMFP Scheme as subsidy claimed by the petitioner amounting to Rs.50.00 lakhs. The petitioner is directed to file a detailed representation to the State Government alongwith certified copy of this order and the State Government is directed to organize a meeting of a State Level Empowered Committee for reconsideration of the case of the petitioner for grant of benefit of subsidy in terms of the NMFP Scheme within a period of three (3) months from the date of receipt of certified copy of this order and extend the benefit of subsidy of NMFP Scheme to the petitioner within the aforesaid period, if there is no other legal impediment.

16. Accordingly, the petition is allowed. No order as to cost.

16. After going through all this discussion and factual details, it appears that matter requires re-consideration and learned Writ Court caused no

illegality in directing the same. Therefore, impugned order passed by the learned Writ Court stands affirmed. Appeal bereft of merit is hereby **dismissed**. Appellants/State to proceed as directed by Writ Court.

**(ANAND PATHAK)**  
**JUDGE**

**(HIRDESH)**  
**JUDGE**

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