



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 30th DAY OF MARCH, 2022

BEFORE

HON'BLE MS. JUSTICE SABINA

&

HON'BLE MR. JUSTICE SATYEN VAIDYA

LETTERS PATENT APPEAL No. 21 of 2021

Between:-

RAJESH SHARMA,
SON OF AMAR DUTT,
RESIDENT OF VILLAGE MATIYUL,
POST OFFICE GALANAG,
TEHSIL AND DISTRICT SOLAN,
HIMACHAL PRADESH

.....APPELLANT

(BY MR. SANDEEP K. PANDEY,
ADVOCATE)

AND

1. UNION OF INDIA THROUGH ITS
SECRETARY, DEPARTMENT
OF HORTICULTURE,
MINISTRY OF AGRICULTURE,
NEW DELHI.
2. NATIONAL HORTICULTURE
BOARD, PLOT NO.85, INSTITUTIONAL
AREA, SECTOR 18, GURGAON,
THROUGH ITS MANAGING DIRECTOR.
3. THE REGIONAL MANAGER,
NATIONAL HORTICULTURE BOARD,
H.P. M.C., 2ND FLOOR, NIGAM VIHAR,
SHIMLA, H.P.-171002.

.....RESPONDENTS

**(MR. BALRAM SHARMA,
ASSISTANT SOLICITOR GENERAL
OF INDIA, FOR R-1 AND
MR. HARSH VARDHAN, ADVOCATE,
FOR R-2 AND R-3)**

*This Appeal coming on for admission this day, **Hon'ble**
Ms. Justice Sabina, delivered the following:*

J U D G M E N T

Appellant has filed the Letters Patent Appeal, challenging the order dated 12.07.2019, passed by the learned Single Judge, whereby writ petition filed by the appellant was dismissed.

2. Learned counsel for the appellant has submitted that the appellant wanted to set up a unit for manufacture of corrugated boxes/cartons for apple, which was a horticulture produce. Appellant had also applied for a term loan from the bank. The respondents had issued guidelines with regard to the scheme for 'Development of Commercial Horticulture through Production and Post Harvest Management of Horticulture Crops'. Case of the appellant was covered under the 'National Horticulture Board Guidelines'. However, the respondents had wrongly rejected the application of the appellant with the remarks that it was not covered by National Horticulture Board Guidelines.

3. Clause-II of the scheme defines PHM/Primary Processing related components and the portion relied by learned counsel for the appellant reads as under:-

PHM/Primary Processing related components:- credit linked projects involving the following items are eligible for assistant under this component:-

- “i) Washing, drying, sorting, grading, waxing, packing, palletizing, freezing units etc.*
- ii) xxxxxxxxxxxx*
- iii) xxxxxxxxxxxx*
- iv) xxxxxxxxxxxx*
- v) xxxxxxxxxxxx*
- vi) xxxxxxxxxxxx*
- viii) xxxxxxxxxxxx*
- viii) xxxxxxxxxxxx*
- ix) xxxxxxxxxxxx*
- xi) xxxxxxxxxxxx*
- xi) xxxxxxxxxxxx*
- xii) xxxxxxxxxxxx*
- xiii) xxxxxxxxxxxx*
- xiv) Horticulture ancillary industry for promoting indigenous manufacturing of horticulture related farm tools & machineries, equipments, plastics containers, packaging etc.*
- xv) xxxxxxxxxxxx*
- xvi) Plastic Crates and Bins, Cartons, Aseptic Packaging and Nets.”*

4. General conditions for PHM/PP projects have also been enumerated in the guidelines and Clause (iv) of the same reads as under:-

“Shade nets and anti hail nets shall be considered as one time assistance for credit linked project for

the benefit of existing commercial horticulture projects of fruit orchards qualifying area norm of above 4 Ha. Assistance in case of CFB Cartons, Aseptic Packaging, Punnets /Poly bags etc shall be available on merit for launching a new horticulture product during its first year and for introduction of horticulture products in a market as one time assistance.”

5. In the present case, the appellant wants to start a unit for manufacture of corrugated boxes for apple. Admittedly, appellant is neither launching a new horticulture product, nor introducing any horticulture product in the market. Hence, the fact that the appellant wants to start manufacture of the corrugated boxes for packing apple would not entitle him to the benefit of National Horticulture Board Guidelines. Manufacturing of boxes by the appellant cannot be described as a horticulture product or a horticulture produce. Hence, the learned Single Judge had rightly held that the case of the appellant was not covered under the scheme. A combined reading of Clauses (iv), (xiv) and (xvi) of Clause II (supra) and Clause (iv) of General Conditions for PHM/PP projects reveals that the case of the appellant would not fall within the scheme. As per the said provisions, assistance in case of CFB Cartons, Aseptic packaging, Punnets/Poly bags etc. shall be

available on merit for launching a new horticulture product during its first year and for introduction of horticulture products in a market as one time assistance.

6. In the facts and circumstances of the case, learned Single Judge has, thus, rightly dismissed the writ petition filed by the appellant. No ground for interference is made out. Accordingly, the appeal is dismissed.

**(Sabina)
Judge**

**(Satyen Vaidya)
Judge**

March 30, 2022
(Himalvi)