IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/LETTERS PATENT APPEAL NO. 844 of 2014

In R/SPECIAL CIVIL APPLICATION/11114/2012

With
R/LETTERS PATENT APPEAL NO. 45 of 2015
In R/SPECIAL CIVIL APPLICATION NO. 11114 of 2012
With
R/CROSS OBJECTION NO. 57 of 2017
In R/LETTERS PATENT APPEAL NO. 45 of 2015

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DIRECTORATE OF MARKETING AND INSPECTION DEPARTMENT OF AGRICULTURE AND
Versus
AGRICULTURE PRODUCE MARKET COMMITTEE UNJHA & ORS.
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Appearance:
MR HARSHEEL D SHUKLA(6158) for the Appellant(s) No. 1
MR BHARAT JANI(352) for the Respondent(s) No. 3
MR SALIL M THAKORE(5821) for the Respondent(s) No. 1
RULE SERVED for the Respondent(s) No. 2
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CORAM:**HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL**
and
HONOURABLE MR.JUSTICE D.N.RAY

Date : 29/07/2026

ORAL JUDGMENT
(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)

1. Mr.Salil M. Thakore, the learned advocate appears for the respondent No.1 – Original petitioner.

2. Heard the learned counsel for the parties and perused the record, we note that the only challenge to the judgment and order dated 09.06.2014 passed by the learned Single Judge in this intra-court appeal is that by the date, the

relevant amendments have been brought into the The Gujarat Agricultural Produce Markets Act, 1963 by the notification of the State Government, which is dated 13.08.2007, the stages of the scheme namely, floating of tenders and 60% of the issue of work orders was already completed.

3. The contention of the learned counsel for the appellant herein is that the project of the petitioner Agriculture Produce Market Committee (APMC) is, thus, considered ineligible for subsidy under the scheme.

4. Reliance is placed upon clause '3' of the Agricultural Marketing Infrastructure Grading and Standardization scheme of the Ministry of Agriculture, Department of Agriculture and Cooperation, Government of India, which reads as under:-

> *"3. SALIENT FEATURES OF THE SCHEME*
>
> *SCHEME LINKED TO REFORMS*
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> *(i) The scheme will be implemented in those States which amend the APMC Act wherever required, to allow direct marketing and contract-farming and to permit setting up of markets in private and cooperative sectors.*
>
> *(ii) Credit linked back-ended subsidy shall be provided on the capital cost of general or commodity specific infrastructure for marketing or agricultural commodities and for strengthening and modernization of existing agricultural markets, wholesale, rural periodic or in tribal areas. State Agricultural Produce Marketing Boards/ Committees or other State agencies will be free to decide as to the quantum of loan or invest their own funds in lieu of loan as per their requirement."*

5. It was argued by Mr. Harsheel D. Shukla, learned advocate appearing for the appellant, Directorate of Marketing and Inspection, Department of Agriculture and Cooperation, Ministry of Agriculture, Government of India, that only such schemes which were floated after the notification dated 13.08.2007 could be said to be eligible for subsidy under the AMIGS scheme of the Government of India.

6. Having read clause '3' of the operational guidelines of the scheme for development / strengthening of agricultural marketing infrastructure, grading and standardization (AMIGS), we may note that there is no cut-off date therein. Clause 3(i) of the guideline pertaining to the linking of the scheme to reforms, only provides that the scheme will be implemented in those States which amend the APMC Act wherever required and that it did not allow direct marketing and contract farming and permitting setting up of markets in the private and cooperative sectors.

7. The Government of Gujarat has brought the necessary amendments under the APMC Act vide notification dated 13.08.2007, with a view to implement the AMIGS scheme in the State of Gujarat.

8. As noted by the learned Single Judge in the judgment impugned, the petitioner APMC had applied for loan from the Bank of India along with the appropriate project report with all details, with a specific mention of the claim for subsidy under the scheme.

9. The National Bank for Agriculture and Rural Development (NABARD) asked the Bank of India to discuss the matter with the petitioner for necessary modification in the project vide communication dated 13.03.2008. The officers of NABARD and the Bank of India jointly visited the site of the petitioner and made suggestions on 03.05.2008, which was clear from the communication dated 02.06.2008. The project report was revised by the petitioner considering the suggestions of the competent authority and was submitted before the Bank of India on 11.08.2008, which in turn forwarded the same to NABARD on 14.08.2008. Clarifications were sought by NABARD, and even 50% of the subsidy was credited to the account of the petitioner, as noted from the contents of the letter dated 12.05.2009 of the Bank of India.

10. For final subsidy claim also, a necessary proposal was made by the Bank of India to NABARD, as noted from the contents of the letters dated 04.02.2010 and 31.03.2010, which was rejected by the Ministry of Agriculture, Department of Agriculture and Cooperation vide letter dated 26.03.2012, subject matter of challenge before the Writ Court.

11. It was noted by the Writ Court that the only objection taken by the concerned Ministry in the rejection letter dated 26.03.2012 was that the project has progressed much prior to the notification dated 13.08.2007 issued by the Government of Gujarat, for implementation of the scheme.

12. However, the fact remains that the project was processed by the channelizing bank, namely NABARD since after 13.03.2008, when it suggested necessary modifications in the project in its communication sent to the Bank of India, before whom the petitioner had submitted the project report to secure the loan and the benefit of the scheme.

13. In the said scenario, the learned Single Judge has given the following reasons:

> *"7. Having heard learned advocates for the respective parties and having gone through the material on record, this Court finds as under:-*
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> > *7.1 The correspondence of hundreds of pages, which is on record, is considered by this Court in due chronology. Having considered it, it transpires that, not only the work done by the petitioner is in consonance with the object of the scheme in question, but even the respondent authorities had made suggestions to the petitioner by exchanging correspondence with it, from time to time, for furtherance of the objects of the scheme. At no stage, the eligibility of the petitioner was questioned by any of the authorities. Though there may not be any estoppel in that regard, but due application of mind by the authorities at more than one stages, including consideration and modification of the project report on the lines of the scheme, makes the impugned decision very shaky.*
> >
> > *7.2 The acceptance of the claim of the petitioner, in the facts of this case, would in no way be in conflict with the scheme in question and it would only be in furtherance of the objects mentioned in the scheme. On the other hand, rejection thereof would be counter productive if the objects of the scheme are kept in view in right perspective.*
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> > *7.3 Further, learned senior advocate for the petitioner is right in his submission that though the Courts are not free to direct the making of legislation, Courts are bound to evolve, affirm and adopt principles of interpretation which will further and not hinder the goals set out in the*

directive principles of the State Policy. The ratio of the decision of Honourable the Supreme Court of India in the case of the U.P. State Electricity Board (supra) (para-5, in particular) will apply with full force, in favour of the petitioner, in the facts of this case.

7.4 Further, there was no suppression of any fact, nor was there any misrepresentation about any fact, at any stage, to any authority by the petitioner. Further, even there was spot inspection by the respondent authorities and suggestions were made by them which were duly accepted by the petitioner and those suggestions were carried out, and considering the totality, loan was sanctioned and even first installment of subsidy was also passed on to the petitioner.

7.5 Considering the totality, a picture has emerged where the impugned decision of the authorities of the Government is not found to be sustainable. It is contrary to the object and spirit of the scheme and therefore the same needs to be quashed and set aside."

14. None of the reasonings given by the learned Single Judge can be said to suffer from any error of law. The submissions made by Mr. Harsheel D. Shukla, learned advocate for the appellant, about the eligibility of the original petitioner namely, APMC, Unjha, Mehsana, for according the benefit of the AMIGS scheme are devoid of force and, hence, turned down.

15. With the above, no interference is called for. The appeal stands dismissed, being devoid of merit. No order as to costs.

16. With the above, the connected appeal being Letters Patent Appeal No.45 of 2015 filed by the NABARD is dismissed being wholly misconceived.

17. In view of the above decision, cross objection and all other pending applications in the present appeal, if any, stand disposed of.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

SAHIL S. RANGER