$~19

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: September 21st, 2026*

\# **CNR No. DLHC010105472022**

\+ **W.P.(C) 4328/2022**

M/S GOODWILL ENERGY ENTERPRISES .....Petitioner

Through: Mr. Prithu Garg, Mr. Ashutosh Arvind Kumar and Mr. Aryan Bhat, Advocates.

versus

UNION OF INDIA .....Respondent

Through: Mr. Mukul Singh, CGSC with Mr. Aryan Dhaka and Ms. Priyal Goswami, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. *(Oral)*

1. The present petition is filed under Article 226 of the Constitution of India seeking quashing of letters dated 27.02.2019 and 06.09.2019 whereby the respondents refused to release capital subsidy in favour of the petitioner. The petitioner consequently prays for directions to the respondent to release the said subsidy in the petitioner's favour.

2. Briefly stated, the respondent had floated the Scheme for grant of Financial Assistance/Subsidy to Small Hydro Power Projects, pursuant to the same an entity, namely, KEPL had submitted its application for the sanction of capital subsidy for its project pertaining to setting up of 24 MW Hydro Electric Project in Villages Surru and Kut, Tehsil Rampur, Shimla, Himachal Pradesh.

3. The respondent *vide* letter dated 30.07.2011 sanctioned a capital subsidy of ₹8,90,00,000/- for the said project and had accordingly

released the first tranche of ₹4,45,00,000/- to Punjab National Bank against submission of a bank guarantee dated 20.05.2011 of equal amount by KEPL.

4. Subsequently, the loan account of KEPL was declared as a Non Performing Asset and accordingly, action was initiated against it by the Punjab National Bank under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (‘**SARFAESI**’). Thereafter, the project was purchased by the petitioner *vide* e-auction, confirmed on 07.10.2017.

5. The respondent issued a letter dated 19.06.2018 to KEPL, requesting it to extend the Bank Guarantee dated 20.05.2011 for a period of one year and submit a progress report, synchronization certificate and monthly generation data if the project has been commissioned. In response, KEPL informed the respondent by letter dated 21.08.2018 regarding the transfer of the subject project to the petitioner pursuant to SARFAESI auction dated 07.10.2017. Thereafter, the respondent withdrew the sanction of the project and encashed the bank guarantee submitted by KEPL.

6. Subsequently, the petitioner issued a letter dated 09.10.2018 to the respondent informing it that it had purchased the said project and that it shall apply for the capital subsidy as per prevailing regulations. Thereafter, the petitioner issued another letter dated 14.11.2018 applying for the capital subsidy of Rs.8,90,00,000/-. However, the respondent *vide* letter dated 27.02.2019 informed the petitioner that even though owners of the project have changed, the project cannot be treated as a new project and hence, subsidy for the said project cannot

be sanctioned once again as the project was previously sanctioned subsidy but was not completed in time.

7. Thereafter, the petitioner issued another letter dated 24.05.2019 to the respondent, explaining the delay in commissioning of the project and requesting release of the subsidy. However, the respondent *vide* letter dated 06.09.2019, informed the petitioner that their representation for claim of subsidy could not be allowed as the project was already sanctioned in 2011 and withdrawn due to the erstwhile owner's account becoming a non performing asset and non-commissioning of the project.

8. Aggrieved thereby, the present petition has been filed.

9. The learned counsel for the petitioner submits that the respondent's refusal to extend the subsidy granted to the erstwhile owners to the petitioner is arbitrary and unreasonable.

10. He submits that from the stand taken by the respondent in the letter dated 19th June 2018 requesting KEPL to submit the progress report of the Project, it is evident that the respondent intended to extend the implementation date of the project for availing the subsidy subject to KEPL submitting the Bank Guarantee as per the terms of the Scheme.

11. He submits that the respondent, having sanctioned the capital subsidy in favour of the Project, could not have subsequently withdrawn or denied the sanctioned subsidy without any valid or disclosed basis.

12. Per Contra, the learned counsel for the respondent vehemently opposed the present petition. He submits that the subsidy of

₹8,90,00,000/- was sanctioned in favour of KEPL, of which 50% was released against a Bank Guarantee. However, the Project was not commissioned within the stipulated period and the loan account of the erstwhile developer became an NPA. He submits that under Clauses 27 and 38 of the SHP scheme, the Ministry was entitled to withdraw the financial support and recall the subsidy already released in view of such subsequent developments.

13. He submits that the subsidy was accordingly withdrawn and the Bank Guarantee was encashed. He submits that the petitioner, having subsequently acquired the Project through SARFAESI proceedings, cannot claim the earlier subsidy afresh, particularly when the relevant scheme was no longer in force when the petitioner approached the Ministry. He submits that granting the subsidy to the petitioner would amount to issuing a fresh sanction in the absence of any operative scheme.

14. He submits that the Ministry was entitled to seek information regarding the Project and its subsequent developments, and such correspondence dated 19.06.2018 could not revive the withdrawn subsidy.

15. At the outset, it is pertinent to point out that the present petition has been filed on 22.02.2022 assailing letters dated 27.02.2019 and 06.10.2019, thus the present petition has been filed after a period of more than two years. There is absolutely no justification given for this delay in filing of the petition.

16. In this regard, we may draw reference to the Judgment of the Hon’ble Apex Court in ***Chennai Metropolitan Water Supply &***

***Sewerage Board v. T.T. Murali Babu* : (2014) 4 SCC 108**, wherein it was held as under:-

> *"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis."*

17. From the foregoing, it is evident that while no statutory limitation period is prescribed for instituting a writ petition under Article 226 of the Constitution, undue delay and latches may nonetheless defeat the petitioners' right to challenge the impugned order, as it could cause prejudice to the opposite party.

18. Even otherwise, considering the case of the petitioner on merits, it is pertinent to note that the petitioner came to acquire the project on 07.10.2017 pursuant to the SARFAESI proceedings. Even after taking over the project, the petitioner did not immediately approach the respondent or assert any entitlement to subsidy under the scheme. The petitioner appears to have sought to assert such a claim only after becoming aware of the correspondence dated 19.06.2018 between the respondent and KEPL concerning the subsidy.

19. The contention of the petitioner that the respondent had condoned the delay in commissioning of the project by its letter dated 19.06.2018 is also misplaced. The said letter was merely a request for a report regarding the progress of the project and compliance in relation to the Bank Guarantee. It did not extend the life of the Scheme or provide for continuation of the subsidy beyond the period prescribed under the Scheme.

20. The petitioner, for the first time, by its letter dated 09.10.2018, informed the respondent that it would apply for the subsidy. It is pertinent to note that the said scheme already stood expired by the time this letter was issued.

21. The scheme under which the petitioner is claiming subsidy was introduced in the year 2011 for grant of Financial Assistance/Subsidy to Small Hydro Power Projects. Such schemes are introduced with the object of facilitating the timely implementation and commissioning of such projects. The Scheme in question had expired in 2017 and had lived its stipulated life and served the purpose for which it was introduced. Thus, no benefit can be accorded to the petitioner under the said scheme at this stage.

22. In view of the aforesaid position on merits, coupled with the delay in approaching this Court, no ground is made out for exercise of the extraordinary jurisdiction under Article 226 of the Constitution.

23. The writ petition is, accordingly, dismissed.

24. Pending applications (if any) also stand disposed of.

AMIT MAHAJAN, J

SEPTEMBER 21, 2026/*DU*