IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4839 of 2020
Date of Decision: 26.10.2026

Himachal Pradesh Tourism Development Corporation Limited **....Petitioner**

Versus

Union of India & others **.....Respondents**

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge
Hon'ble Mr. Justice Yogesh Jaswal, Judge

Whether approved for reporting? Yes.

For the petitioner: Mr. Rakesh Sharma, Advocate.

For the respondents: Mr. Janak Raj, Central Government Counsel, for respondent No.1

Mr. Vijay Arora, Senior Advocate with Mr. Hitansh Raj, Advocate, for respondents No.2 & 3.

Ajay Mohan Goel, J. *(Oral)*

By way of this writ petition, the petitioner has inter alia prayed for the following reliefs:-

(a) Issue a writ in the nature of mandamus directing the Designated Committee (Respondent No.3) to consider the petitioners case under litigation since the petitioner falls under the category of litigation as per the provisions of section 121(c) of the Sabka Vishwas (Legacy Dispute

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Resolution) Scheme, 2019 and the appeal filed by the petitioner was within time period.

(b) Direct the Respondents No.3 to refund a sum of Rs.8,55,511/- being collected without the authority of law.

2. Petitioner herein is the Himachal Pradesh Tourism Development Corporation. The contention of the petitioner is that it applied for the benefit of a scheme that is Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (hereinafter referred to as the 2019 Scheme), which was published in the Finance Act, 2019. As per the petitioner, in terms of the 2019 Scheme, a party could have applied for the benefit thereof either on account of "amount in arrears" or under the category of "litigation". Accordingly, the petitioner had applied under the category within "litigation" and the consideration of the case of the petitioner vide Annexure P-7 as one in the category of "amount in arrears" is not justifiable in law.

3. Mr. Rakesh Sharma, learned counsel for the petitioner submits that in the present case a show notice dated 20.04.2018 was issued to the Corporation, which was replied to by the Corporation and which culminated into an order dated 19.06.2019, creating a demand of Rs. 36,82,360/- with 100% penalty . Against this order, the petitioner filed an appeal before the Appellate Authority on 06.09.2019 and it also applied under the 2019 Scheme for the benefit thereof. However, rather than dealing with the case of the petitioner as one under the "litigation"

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category, the same was dealt with under the "arrears" category, which has resulted in great injustice to the Corporation. Accordingly, he has prayed that the present petition be allowed.

4. On the other hand, learned Senior Counsel appearing for respondents No.2 and 3 argued that the present writ petition is not maintainable. He submits that there is no challenge to any order passed by any Authority under the 2019 Scheme and in fact the petitioner-Corporation acquiesced to the contents of Annexure P-7 order 13.01.2020 and deposited a sum of Rs 8,55,511/- in lieu of the demand, which was raised in terms of order dated 19.06.2019 without any protest etc and after depositing the amount in the month of February 2020, the writ was filed in the month of August 2020, which was just an after thought. Learned Senior counsel also submits that otherwise also as the case of the petitioner was falling under the category of "amount in arrears" it was rightly considered under the said category.

5. Having heard learned Counsel for the petitioner as well as also learned Senior counsel and having perused the pleadings as well as the documents on record, we concur with the submission of the learned Senior counsel for respondents No.2 and 3 that the present writ petition does not hold any merit.

6. The petitioner approaching the Authority for the benefit of the 2019 Scheme, is a matter of record. During the course of the consideration of the case of the petitioner under the 2019 Policy, when

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the matter was listed before the Authority concerned on 13.01.2020, the following order was passed :-

> "Sh. Sushil Sharma, Accounts Officer, HPTDC, Shimla, H.P. appeared for P.H. on 13.01.2020. He submitted that due to sudden snowfall and bad road conditions he could not appear for P.H on 10.01.2020. On being asked why they have filed the declaration under litigation category, he submitted that the SCN issued to them has been adjudicated on 19.06.2019 and was under appeal (i.e. litigation category) as on 30.06.2019 & they have filed an appeal before Commr(Appeals) on 06.09.2019. He further submitted that as per instructions issued by the Board vide para 2(v) OF Circular No.1073 dated 12.12.2019 that the eligibility w.r.t such cases shall be as it was on the relevant date i.e. 30.06.2019 therefore, their case falls under Litigation category as it was under appeal period as on 30.06.2019. It was explained to him that their case squarely falls as per definition & example given in Question No.6 of the FAQ, where if an appeal has been filed after the cut off date, the case would come under arrears category, after giving the requisite declaration. He further submitted that they will give an undertaking as per requirement under the scheme after the prior approval of the management."

7. This order is on record, appended with the petition as Annexure P-7. A perusal of this order demonstrates that it was in terms thereof that the Authority negated the contention of the petitioner-Corporation that its case was covered under the "litigation" category and observed that the same was covered under the "amount in arrears"

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category. According to us, cause of action, if any, accrued to the Corporation, when this order was passed, but we find that this order was never assailed by the Corporation. In fact, we find that there is no challenge to this order even in the present writ petition. Not only this, as was submitted by the learned Senior counsel appearing for respondents No.2 and 3, the Corporation abided by the observations, which were contained in order dated 13.01.2020 and deposited an amount of Rs.8,55,511/- which was demanded from the Corporation by the Authority in terms of the 2019 Scheme by treating the case of the petitioner to be under the "amount in arrears" category. We do not find from the material placed on record that the deposition of the said amount was made by the Corporation under any kind of protest.

8. The contention of the learned counsel for the petitioner that the petitioner had no option but to deposit this amount does not satisfy us for the reason that the amount, deposited by the Corporation was not in any proceeding which was initiated against the Corporation by the Authority, which can be termed as a demand/punitive proceeding, but it was in the course of a proceeding, which enunciated from the application/request made by the petitioner-Corporation for consideration of its case under the 2019 Scheme. It is also a matter of record that the present petition was filed in the month of October 2020 without there being any averment made in the writ petition as to why the petitioner could not approach the Court immediately after the deposition of the

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amount, in case the petitioner was indeed aggrieved by the demand falling under the "amount in arrears" category. The contention of the learned counsel that the same was on account of the Covid Pandemic, is not borne out from the petition because there is no averment made in this regard in the writ petition.

9. Therefore, in light of the above discussion as the petitioner-Corporation abided by the order that was passed by the Authority on 13.01.2020, which has gone unchallenged and deposited the requisite amount, which it was called upon to pay under the " amount in arrears" category without any protest etc, the petition has no merit and is dismissed. Pending application(s), if any, shall also stand disposed of.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

October 26, 2026
(meera)

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