

W.P.No.12963 of 2024 etc., (batch cases)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Orders reserved on : 22.04.2025

Orders pronounced on : **02.06.2025**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.12963, 12968, 12966, 12979, 12985, 12981, 12988, 13331, 13350,
13345, 13341, 16406, 16427, 16424, 16618, 16693, 16692, 16691, 16661,
18440, 18453, 18450, 18446, 18442, 23403, 23512, 23509 and 23416 of
2024

and W.M.P.Nos.25712 and 25580 of 2024

In W.P.No.12963 of 2024:-

Stanes Amalgamated Estates Limited
(Kotada Estate),
Kotada Group, Kotada Estate P.O. 643 236,
Via Kotagiri,
Represented by its Authorised Signatory,
B.Ambalatharasu

.. Petitioner

Versus

1. Tea Board of India
(Ministry of Commerce & Industry,
Dept. of Commerce, Govt of India),
Represented by Deputy Director of
Tea Development,



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'Shelwood', Club Road, P.O Box No.6,
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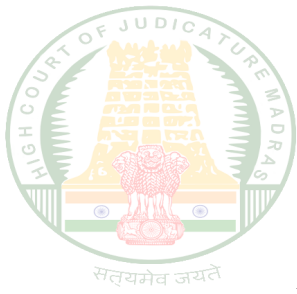
2. Union of India,
Represented by the Secretary, Ministry of Commerce
& Industry,
Department of Commerce,
Vanijya Bhawan,
New Delhi - 110 001. .. Respondents

Prayer in W.P.No.12963 of 2024 : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for records leading up to the passing of the order, dated 05.09.2023 bearing Ref.No.26(81)/OTPS/BG/KTG/Jan-June/2018/521 by the respondent No.1 and to quash the same and consequently direct the respondents to forthwith release to the petitioner the subsidy amount totalling to Rs.45,15,393/- with interest at 18% per annum.

For Petitioner : Mr.Srinath Sridevan, Senior Counsel
(in all W.Ps) for Mr.Roshan Balasubramanian

For Respondent : Mr.AR.L.Sundaresan,
(in all W.Ps) Additional Solicitor General of India,
Asstd. by Mr.Prasad Vijayakumar,
Senior Panel Counsel

COMMON ORDER



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All these Writ Petitions address similar grievances and are therefore

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taken up together and disposed of by this common order.

2. The petitioners grow and manufacture tea. By the separate orders challenged in the individual Writ Petitions, the first respondent, namely the Tea Board of India, rejected the petitioners' claim of subsidy amount under the Orthodox Production Subsidy Scheme for the years 2018, 2019, and 2020. The impugned orders state that the scheme itself clearly mentions that mere submission of applications does not guarantee financial assistance; eligibility depends on full compliance with the scheme's guidelines and the availability of financial resources. The scheme ended on 31.03.2021 and was no longer in existence, along with the budgetary allocations. Therefore, in the absence of budgetary allocation, as per the General Financial Rules, 2017, specifically Rule 26, the Tea Board of India could not make the payment of subsidy as claimed by the petitioners, and hence, their claim was rejected. Challenging such individual impugned orders and consequently



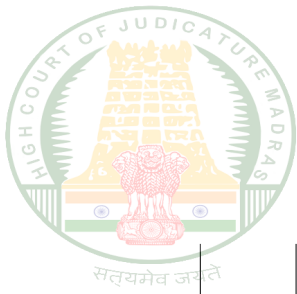
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seeking a mandamus directing the respondents to release the subsidy
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amount, these Writ Petitions have been filed.

3. The following table depicts the writ petition number, the name of the petitioner industry, the subsidy amount they claimed under the orthodox tea planting and replanting schemes, as well as the status of inspection:

S.No	WP No.	Petitioner	Subsidy payable	Status of scheme process
1.	WP 24303/24	Neelamalai Agro Industries Ltd	Rs.1,37,13,555 (OTP)	Inspections complete for Rs.73,99,689/- vide Inspxn Reports dt.01.01.2020. Inspections pending for Rs.63,13,866/- , vide Applications dt. 25.01.2020, 24.07.2020 & 28.01.2021.

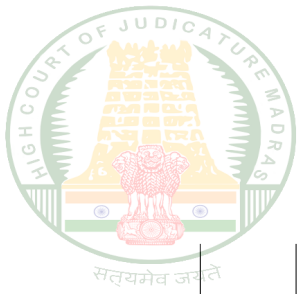


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			Rs.20,42,364 (Replanting)	<p>Inspection complete for Rs.12,25,358/- vide Inspxt Report dt. 27.03.2019.</p> <p>Inspection pending for Rs.8,16,906/- vide Application dt. 06.04.2017, NOC dt. 20.06.2017 & Completion Report dt. 24.01.2019.</p>
2.	WP 23509/24	Parry Agro Industries Ltd. (Iyerpadi Factory)	Rs.13,71,618 (OTP)	<p>Inspections complete for Rs.13,71,618/-, vide Inspxn Reports dt. 28.09.2021.</p>
3.	WP 12979/24	Maris Agro Products Pvt. Ltd.	Rs.93,81,855 (OTP)	<p>Inspections complete for Rs.68,29,887/-, vide Inspxn Reports dt. 07.02.2020 & 24.11.2020.</p> <p>Inspections pending for Rs.25,51,968/-, vide Applications dt. 23.07.2019 &</p>



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				26.01.2021.
4.	WP 12981/24	Nilgiri Agro Agencies Pvt. Ltd.	Rs.56,23,092/- (OTP)	<p>Inspections complete for Rs.9,61,473/-, vide Inspxn Report dt. 31.12.2020.</p> <p>Inspections pending for Rs.46,61,619/- vide Applications dt. 19.01.2019, 25.07.2019, 22.01.2020, 28.07.2020 & 22.01.2021.</p>
5.	WP 16424/24	Matheson Bosanquet Enterprises Pvt. Ltd. (Coonoor Tea Estate Factory)	Rs.1,13,18,193/-	<p>Inspections complete for Rs.53,99,382/- vide Inspxn Reports dt. 23.12.2019 & 30.12.2019.</p> <p>Inspections pending for Rs.59,18,811/- vide Applications dt. 30.01.2020, 29.07.2020 & 30.01.2021.</p>
6.	WP 16427/24	Glenmorgan	Rs.26,52,957/-	Inspections

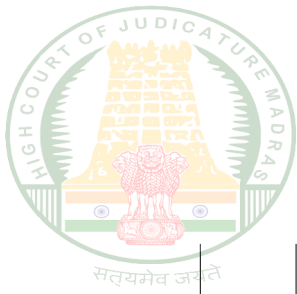


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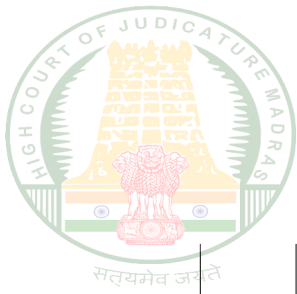
		Tea Estate Co. (OTP) Ltd.		pending for Rs.26,52,956/- <i>vide</i> Applications dt. 25.01.2019, 22.01.2020, 18.08.2020 & 10.02.2021.
7.	WP 12985/24	Southern Tree Farms Ltd.	Rs.33,77,208/- (OTP)	Inspections complete for Rs.20,10,654/- <i>vide</i> Inspxn Reports dt. 14.02.2020 & 26.11.2020.
				Inspections pending for Rs.13,66,554/- <i>vide</i> Application dt. 28.01.2021.
8.	WP 12988/24	The Nonsuch Tea Estates Ltd.	Rs.22,15,962/- (OTP)	Inspections pending for Rs.22,15,962/- <i>vide</i> . Applications dt. 30.07.2018, 28.02.2019, 30.07.2019, 30.01.2020 & 29.07.2020.
9.	WP 13331/24	Havukal Tea & Produce Co.	Rs.1,89,68,244/- (OTP)	Inspections complete for



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		Pvt. Ltd.		Rs.1,89,68,244/- <i>vide</i> Inspxn Reports dt. 23.01.2019, 07.02.2020 & 24.11.2020.
10.	WP 13341/24	Kilkotagiri & Thirumbadi Plantation Ltd.	Rs.1,07,73,360/- (OTP)	Inspections complete for Rs.76,77,867/- <i>vide</i> Inspxn Reports dt. 21.12.2018, 27.11.2019 & 14.02.2020. Inspections pending for Rs.30,95,493/- <i>vide</i> Applications dt. 29.08.2020 & 11.02.2021.
11.	WP 13345/24	Kairbetta Estates Syndicate	Rs.63,21,438/- (OTP)	Inspections complete for Rs.44,78,804/- <i>vide</i> Inspxn Reports dt. 22.05.2019, 17.12.2019 & 08.02.2020. Inspections pending for

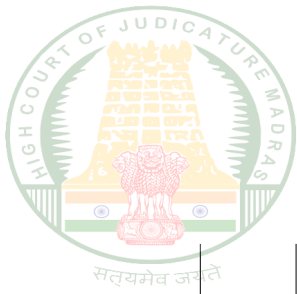


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				Rs.18,42,634/- <i>vide</i> Applications dt. 22.07.2020 & 28.01.2021.
12.	WP 13350/24	Stanes Amalgamated Estates Limited (Welbeck Estate Factory)	Rs.15,09,390/- (OTP)	Inspections pending for Rs.15,09,390/- , <i>vide</i> Applications dt. 31.07.2018, 31.01.2019, 26.07.2019, 30.01.2020, 04.08.2020 & 22.01.2021.
13.	WP 16406/24	Matheson Bosanquet Enterprises Pvt. Ltd. (Parkside Tea Estate Factory)	Rs.1,37,68,017/- (OTP)	Inspections complete for Rs.76,28,556/- <i>vide</i> Inspxn Reports dt. 31.12.2019. Inspections pending for Rs.61,39,461/- <i>vide</i> Applications dt. 30.01.2020, 29.07.2020 & 30.01.2021.
14.	WP 16618/24	United Nilgiri Tea Estates Co. Ltd. (Allada	Rs.36,62,922/- (OTP)	Inspections pending for Rs.36,62,922/-

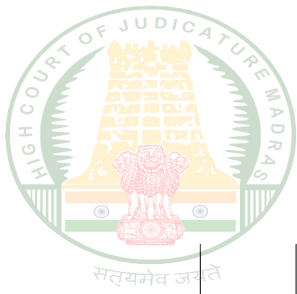


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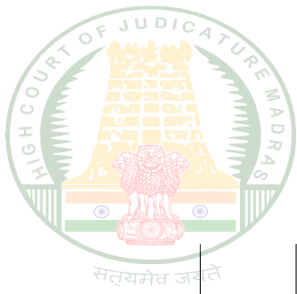
		Valley Factory)		<i>vide</i> Applications dt. 29.01.2019, 16.07.2019, 27.01.2020, 24.07.2020 & 23.01.2021.
15.	WP 16661/24	Craigmore Plantations (India) Pvt. Ltd. (Woodland Tea Factory)	Rs.96,30,771/- (OTP)	Inspections completed for Rs.48,39,462/- <i>vide</i> Inspxn Reports dt. 17.12.2019.
				Inspections pending for Rs.47,91,309/- <i>vide</i> Applications dt. 16.01.2020, 29.07.2020 & 23.01.2021.
16.	WP 16691/24	Kodanad Estate	Rs.1,13,76,550/- (OTP)	Inspections completed for Rs.74,76,468/- <i>vide</i> Inspxn Reports dt. 14.12.2018, 17.12.2019 & 08.02.2020.
				Inspections pending for Rs.39,00,082/- <i>vide</i> Applications dt.



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				19.08.2020 & 09.02.2021.
17.	WP 16692/24	United Nilgiri Tea Estates Co. Ltd. (Chamraj Factory)	Rs.1,18,77,081/- (OTP)	Inspections pending for Rs.1,18,77,081/- vide Applications dt. 29.01.2019, 16.07.2019, 27.01.2020, 29.07.2020 & 25.01.2021.
18.	WP 16693/24	Craigmore Plantations (India) Pvt. Ltd. (Craigmore Factory)	Rs.56,21,301/- (OTP)	Inspections complete for Rs.41,53,500/- vide Inspxns dt. 17.12.2019. Inspections pending for Rs.14,67,801/- vide Applications dt. 16.01.2020, 29.07.2020 & 23.01.2021.
19.	WP 18840/24	Bombay Burmah trading Corporation Ltd. (Oothu Tea Factory)	Rs.9,00,807/- (OTP)	Inspection complete for Rs.2,10,618/- vide Inspxn Report dt. 17.10.2018 Inspections pending for

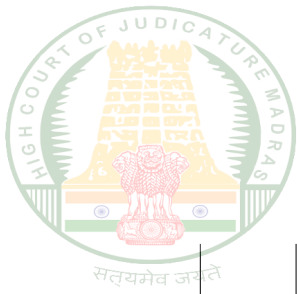


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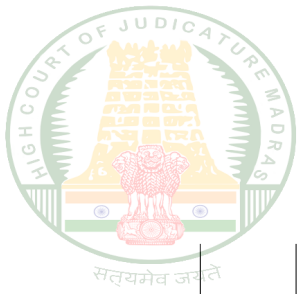
				Rs.6,90,189/- vide Applications dt. 22.02.2019, 28.08.2019, 23.01.2020, 12.08.2020 & 22.01.2021.
20.	WP 18442/24	Bombay Burmah Trading Corporation Ltd. (Anai Mudi Tea factory)	Rs.38,10,516/- (OTP)	Inspections complete for Rs.38,10,516/- vide Inspxn Reports dt. 29.09.2021
21.	WP 18446/24	Bombay Burmah Trading Corporation Ltd. (Dunsandle Tea factory)	Rs.34,85,544/- (OTP)	Inspections complete for Rs.22,37,514/- vide Inspxn Reports dt. 18.03.2021 Inspection pending for Rs.12,48,030/- vide Application dt. 26.08.2018.
22.	WP 18450/24	Bombay Burmah Trading Corporation Ltd. (Manimuttar	Rs.45,27,930/- (OTP)	Inspection pending for Rs.45,27,930/- vide Applications dt. 27.08.2018, 22.02.2019, 19.08.2019,



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		Tea factory)		23.01.2020, 12.08.2020 & 22.01.2021.
23.	WP 18453/24	Bombay Burmah Trading Corporation Ltd. (Thai Mudi Tea Factory)	Rs.4,28,599/- (OTP)	Inspection complete for Rs.4,28,599/- vide Inspxn Reports dt. 29.09.2021.
24.	WP 23416/24	United Nilgiri Tea Estates Co. Ltd. (Korakundah Factory)	Rs.56,21,352/-	Inspection pending for Rs.56,21,352/- vide Applications dt. 31.07.2018, 06.02.2019, 17.07.2019, 25.01.2020, 24.07.2020 & 30.01.2021.
25.	WP 23512/24	Parry Agro Industries Ltd. (Carolyn Estate)	Rs.46,42,587/-	Inspections complete for Rs.25,52,952/- vide Inspxn Reports dt. 07.03.2019, 24.12.2019 & 24.06.2020. Inspections pending for Rs.20,89,635/- vide



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				Applications dt. 24.07.2020 & 11.02.2021.
26.	WP 12966/24	The Nilgiri Tea Estates Ltd.	Rs.30,63,009/- (OTP)	Inspections complete for Rs.16,80,123/- vide Inspxn Reports dt. 23.06.2020 Inspections pending for Rs.13,82,886/- vide Applications dt. 09.01.2020, 23.07.2020 & 22.01.2021.
27.	WP 12968/24	Glenworth Estate Ltd.	Rs.1,89,92,471/- (OTP)	Inspections pending for Rs.1,89,92,471/- vide Applications dt. 23.07.2018, 04.02.2019, 18.07.2019, 30.01.2020, 25.08.2020 & 27.01.2021.
28.	WP 12963/24	Stanes Amalgamated Estates Ltd. (Kotada Tea	Rs.45,15,393/- (OTP)	Inspections complete for Rs.45,13,393/- vide Inspxn Reports dt.



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Factory)

08.02.2020

&

26.09.2021.

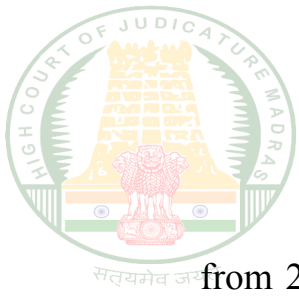
Total Subsidy Due across 28 Writ Petitions = 19,51,94,086/-

Thus, in all 28 writ petitions, the total claimed subsidy amounts to Rs.19,51,94,086/-.

4. The factual details on which these Writ Petitions arise are that the Government of India, for the purposes of implementing international agreements, controlling production and export, and levying excise duty, enacted the Tea Act, 1953. The first respondent in the Writ Petition, the Tea Board of India, is a body corporate constituted under the said Act to carry out its purposes. The Union of India, represented by the Secretary of the Ministry of Commerce and Industry, Department of Commerce, is the second respondent in all these Writ Petitions.

5. The facts regarding W.P.No.12963 of 2024 are narrated below.

Under the 15th Finance Commission, for the Medium Term Framework



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from 2017-18 to 2019-20, the scheme known as the *Tea Development and*

Promotion Scheme During the Medium Term Framework (2017-18 to 2019-

20) was established by the first respondent. The duration of the scheme

spanned from 29.12.2017 to 31.03.2020. It comprises seven major

components, primarily focused on extending subsidies, financial incentives,

and grants-in-aid for various activities conducted by different stakeholders

to improve the production, productivity, and quality of tea in India and to

promote Indian tea in the international market. The relevant portion of the

scheme is extracted below for easy reference:-

"The scheme has the following seven major components covering the broad areas of Tea Board's operation i.e. Plantation Development including small growers, Quality Upgradation and Product Diversification, Market Promotion, Research and Development, Welfare of Tea garden workers, Programme for Tea Regulation and Establishment expenses for overall protection, growth & sustenance of the Indian Tea Industry.

Component-1: Plantation Development including small growers

Component-2: Quality Upgradation and Product Diversification including Orthodox production.

Component-3: Market Promotion-Domestic and International

Component-4: Research and Development



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Component-5 : Human Resource Development

Component

Component-6: National Programme for Tea Regulation

Component-7 : Establishment Expenses

The above components primarily comprises extending subsidy/financial incentives/grant in aid for various activities carried out by different stakeholders for improving the Production, Productivity and Quality of Tea in India and Promotion of Indian Tea in the international market and Research and Development and also the expenditure on salary, pension, establishment and administrative expenses for the human resources of the Tea Board for implementing the scheme.

The Tea Board of India has finalized the modalities for implementation of subsidy/financial incentives/grant in aid under various components, clearly describing the eligibility norms, unit costs, and extent of support for various categories of stakeholders. The subsidy/financial incentives under the various components will be distributed by various departments of the Board depending on the types of activities/beneficiaries. The implementation and monitoring of the subsidies will be carried out as under:"

6. The modalities and disclaimers were also included in the scheme,

and they are extracted here for easy reference:

"13) Submission of application alone will not guarantee grant of financial assistance under any of the scheme components. Grant of financial assistance will depend on full conformity to scheme guidelines and also on availability of financial resources. Priority will be given to workers an their wards and the small growers for distribution of available financial resources.



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14) The modalities containing the details such as eligibility criteria, unit cost, scale of subsidy/grant in aid, release of subsidy/grant in aid, list of documents, procedure for claiming subsidy/granti-in-aid, processing of application and claims for the components/sub-components involving subsidy support/grant-in-aid are presented in this document. The application forms and other relevant formats for all the schemes will be available in all the Offices of the Tea Board and in the Tea Board's website: www.teaboard.gov.in."

7. Under the scheme, the first respondent is said to have conceded to projects related to these Writ Petitions. The first is the Orthodox Plucking Scheme. It is stated that all these petitioners were originally following a method of Crush-Tear-Curl (CTC), which is a quick and mechanized way of manufacturing tea. However, if a tea leaf is plucked whole and dried in a more organic manner, it retains all the essential oils, and this method is referred to as the orthodox method, which was necessary to adopt considering the international market and to enhance the reputation of Indian tea. Similarly, there is another scheme known as the Tea Bush Replanting Scheme, where a particular method of replanting the tea garden was proposed. Since, during the replanting period, the growers will not be able

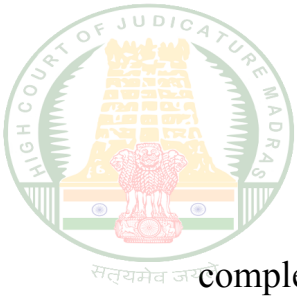


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सत्यमेव जयते to pluck and market the leaves, a subsidy was also introduced. Under both
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schemes, the tea grower was asked to adopt a slower and more organic method, which would be economically unfavorable if short-term goals are considered, but, would align with long-term goals by enhancing quality and reputation in the market. Thus, to incentivize the tea growers to undertake these methods, which would be economically unfavorable in the short run, the scheme was introduced.

8. For the Orthodox Tea Production Scheme, the grower must adopt orthodox plucking and production for a six-month period and then submit an application for a subsidy within the time limit. Thereafter, the first respondent will conduct an inspection, prepare a report, and subsequently, the amount will be sanctioned and payment will be made. Similarly, for the Tea Bush Replanting Scheme, the grower must obtain a No Objection Certificate from the Tea Board, and then proceed to replant the plants. After completing the replanting, the grower should notify the Board of the



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completion and readiness for inspection. Upon receiving such notice, the Tea Board will conduct the first inspection. Afterward, the first installment will be sanctioned. Again, a second inspection will be conducted, and the second installment will be sanctioned and paid.

9. Regarding the production of orthodox tea, the first half of the year will conclude on 31st August, while the second half will end on 28th or 29th February, depending on the case. All the petitioners have admittedly made their production within the time limit and submitted their applications on time. Similarly, concerning replanting, applications were also made within the scheme period. The replanting must be completed within 36 months of uprooting, followed by an inspection. After the first inspection is completed, the second inspection must be conducted within another 24 months. In the first instance, the petitioner in W.P.No.12963 of 2024 submitted the application for the period from January 2018 to June 2018 by 30.08.2018; for July 2018 to December 2018 on 26.02.2019; for January



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2019 to June 2019 on 26.07.2019; and for July 2019 to December 2019 on
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29.01.2020. The inspection was conducted on 08.02.2020. Reports were submitted for all four periods. Then, on 05.05.2020, an application was made for the period from January 2020 to June 2020. For July 2020 to December 2020, an application was made on 28.01.2021. On 26.09.2021, inspections were conducted for both periods. By calculating the quantity of green and orthodox tea produced, the petitioner is claiming a subsidy amount of Rs.45,15,393/-. This amount has not been paid; therefore, repeated representations and reminders were made, following which, the impugned orders were issued. Identical circumstances exist in these 28 Writ Petitions, and as such, all the petitioners have approached this Court.

10. The contention of the writ petitioners is that while the scheme was in operation, all the writ petitioners adopted the methods suggested by the Tea Board and are engaged in Orthodox Tea Production. One of the writ petitioners, Neelamalai Agro Industries Limited, also undertook replanting.



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The respondents, without any valid reason, did not make the payment,
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whereas, several other similarly situated tea growers in select areas were granted the subsidy. Absolutely no criteria have been followed. Therefore, the actions of the respondents violate Article 14 of the Constitution of India.

The petitioners argue that the first respondent Board, as an authority of the State, cannot release subsidies to whomever it desires without any rational basis. Furthermore, the rejection of applications on the ground of no budgetary allocation cannot be permitted, and in any event, budgetary allocation is indeed available.

11. All these Writ Petitions are resisted by filing a counter-affidavit on behalf of the first respondent. It is their submission that the scheme itself categorically disclaims any guarantee of financial assistance upon merely submitting an application. This assistance is a benevolence conferred by the Board and the Government, and none of these petitioners can claim a subsidy as a matter of right. Furthermore, the first respondent board



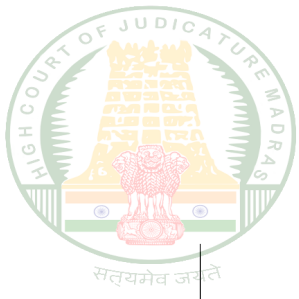
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specifically states that it receives funds under the scheme and disburses them to all eligible applicants at the earliest possible time, strictly on a seniority basis without any delay. In fact, the first respondent asserts that seniority is initially maintained based on the date of receipt of the application, provided that all submitted documents are in order. Thereafter, if all papers are in order, the completion of inspection is considered for seniority. Subsequently, if funds are available, the case is sanctioned, and at this stage, the sanction date is taken as the basis for seniority.

12. The first respondent states that, as a statutory board, it is strictly bound by Rule 26 of the GFR Rules. For the MTF period of 2017-2021, the total budget received for each financial year and the expenditure incurred by the board are summarized in paragraph No.9, which is extracted hereunder for ready reference:

MTF Period		
Financial Year	Receipt (Rs. in Crores)	Expenditure (Rs. in Crores)



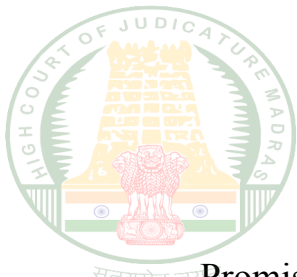
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2017-18	189.04	188.47
2018-19	160.20	159.59
2019-20	175.98	175.46
2020-21	209.19	208.67
Total	734.41	732.19

Therefore, when the subsidies are disbursed and the budget has been exhausted, no further release of subsidies is possible.

13. As a matter of fact, the work undertaken by the petitioners in adopting the methods is for their own business benefit, and they will not be prejudiced due to any suitable method of production or planting. In the long run, they will reap the benefits.

14. *Mr.Srinath Sridevan*, learned Senior Counsel for the petitioners, submits that after promising a subsidy and requiring the petitioners to adopt a different method of production as well as replanting, the first respondent Tea Board cannot deny the subsidy. By applying the Doctrine of



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सत्यमेव जयते Promissory Estoppel, the first respondent is liable to honour its commitment.

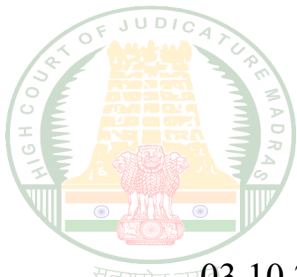
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He asserts that there are no allegations regarding the application not being submitted in time or any other flaws whatsoever. Since the applications of all these petitioners were filed on time, there is absolutely no justification to deny the subsidy established by a scheme formulated by the first respondent.

15. The learned Senior Counsel would rely on the judgment of the Hon'ble Supreme Court of India in *Motilal Padampat Sugar Mills Co. Ltd., Vs. State of Uttar Pradesh and Ors.*¹ to contend that if individuals acted on the promise made by the Government, the Doctrine of Promissory Estoppel prevents the Government from going back on those promises. For the same proposition, the judgment of the Hon'ble Supreme Court of India in *U.P. Power Corporation Ltd. and Anr. Vs. Sant Steels & Alloys (P) Ltd. and Ors.*² and the order of this Court in *Maris Agro Products Private Limited Vs. Tea Board of India and Anr.* in W.P.No.7336 of 2024, dated

1 (1979) 2 SCC 409

2 (2008) 2 SCC 777



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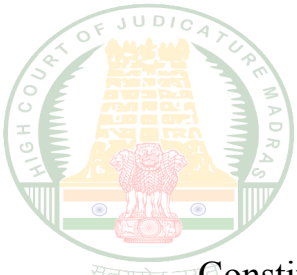
03.10.2024 are cited.

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16. The learned Senior Counsel would further submit that although it is a subsidy that is given, the State formulates the schemes of subsidy for the benefit of its citizens and, once the scheme is framed and operated, it cannot be said that it is a bounty that relies solely on luck. On the contrary, it would be a constitutional guarantee, and the individuals acting on the basis of such a promise of subsidy have a legitimate expectation for its release. The judgment of the Hon'ble Supreme Court of India in ***Sivanandan C.T. and Ors. Vs. High Court of Kerala and Ors.***³, particularly paragraph Nos.45 to 47, is relied upon to argue that the Government must act in a predictable manner and honour its promises. The learned Senior Counsel would also refer to the judgment of the Hon'ble Supreme Court of India in ***State of Jharkhand and Ors. Vs. Brahmputra Metalics Limited, Ranchi and Anr.***⁴ to assert that substantive legitimate expectation arises from Article 14 of the

3 (2024) 3 SCC 799

4 (2023) 10 SCC 634



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Constitution of India, and unless there is any overwhelming public interest,
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legitimate expectations cannot be denied. Paragraph Nos.38 to 47 and 51 of the aforementioned judgment are cited. The learned Senior Counsel would then rely on the judgment of the Hon'ble Supreme Court of India in ***State of Bihar and Ors. Vs. Shyama Nandan Mishra***⁵ to argue that the State cannot change course to deny substantive legitimate expectation. The learned Senior Counsel would then reference the judgment of this Court in ***M.Paramasivam Vs. The Secretary, Adi Dravidar and Tribal Welfare Department, Chennai and Ors.*** in W.P.No.38724 of 2024, wherein the principle laid down by the Hon'ble Supreme Court of India in ***Sivanandan C.T.***'s case (cited supra) was applied.

17. The learned Senior Counsel would then submit that when the petitioners have submitted the application and are entitled to the subsidy, the non-availability or lack of funds cannot be a defense when the State is liable to pay based on Promissory Estoppel. In this regard, the judgment of the

⁵ (2022) 17 SCC 420



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High Court of Punjab and Haryana in *Sekhri Milk Products Vs. Union of India and Ors.*⁶
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*India and Ors.*⁶ is relied upon. The learned Senior Counsel would submit that the contention is also factually incorrect by pointing to paragraph No.44 of the counter-affidavit, which states that a provision of Rs.298.76 crores was made towards pending subsidy liabilities (of the 12th plan and MTF period) and that only an amount of Rs.127.65 crores has been paid during the financial years 2020-21 and 2021-22. Therefore, the learned Senior Counsel would submit that the statement made in the impugned order, as well as before this Court, also seems factually incorrect. Consequently, he would pray that these Writ Petitions be allowed.

18. Per *contra*, *Mr.AR.L.Sundaresan*, learned Additional Solicitor General of India for the respondents, would submit that in these cases, the petitioners moved to the Orthodox Tea Plucking Method. It is not that they put themselves in a disadvantageous situation, but, rather in an advantageous one. This change was made solely to further their own business. Although

⁶ 2024 SCC OnLine P&H 11898



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the subsidy scheme is proposed, it cannot create any concomitant,
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enforceable right, especially, since the scheme itself distinctly states that merely applying does not guarantee payment of the subsidy. The Doctrine of Promissory Estoppel can be invoked only when the parties put themselves in a disadvantageous situation. Given that the scheme is a subsidy program, a benevolence conferred by the Government, it would be administered only according to the Rules. Now, the subsidy period is over. The amount that has been earmarked has been spent solely on subsidy payments. Payments made to other tea growers cannot now be recovered or redistributed. The authorities have acted in accordance with the scheme, and once the funds are exhausted, the Tea Board of India has no resources independently to pay all subsidy claims. Rule 26 of the GFR Rules, 2017 requires the first respondent to act within the budgetary allocation. Therefore, there is no merit in these Writ Petitions. The petitioners do not have any right to demand subsidy payments for the improvements they make to their own business and their tea plantations. The judgment of the Hon'ble Supreme



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Court of India in ***Bakul Cashew Co. and Ors. Vs. Sales Tax Officer,***
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Quilon and Anr.⁷, particularly paragraph No. 5, was relied upon.

19. I have considered the rival submissions made on both sides and reviewed the material records of the case.

20. There can be no quarrel over the proposition that the writ petitioners, or anyone, cannot force the Tea Board or the Union of India to grant a subsidy for a particular action. Therefore, if no subsidy scheme was formulated, or if the scheme was scrapped even after the announcement, the petitioners will not have any rights. However, the instant case does not relate to the scrapping or non-availability of a scheme. Admittedly, the scheme was formulated by the respondents, and the relevant portions are extracted *supra*. Budgetary allocations were made. The scheme was operational, and the subsidies were disbursed to similarly situated tea growers/manufacturers as those of the petitioners. Therefore, the only

⁷ (1986) 2 SCC 365



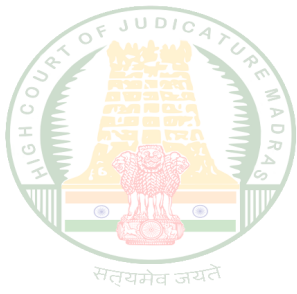
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question to be determined in this case is whether any rationale or criteria
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were followed while disbursing the funds allocated towards the subsidy scheme.

21. It would be entirely within the prerogative of the respondents to establish such criteria. They can assert that smaller players will be preferred over larger ones. They can choose tea growers from disadvantaged backgrounds. They can state that the subsidiary will be distributed pro rata among all claimants, or as a least case of disorder, first come first served can also be followed. However, in this instance, the procedure being followed is detailed in paragraph No. 34 of the counter-affidavit, which is extracted hereunder:-

"34. In reply to Para 19, it is submitted that as and when the 1st Respondent receives funds under a scheme, it is disbursed to all the eligible applicants at the earliest possible time, strictly on seniority basis and without any delay. In fact, initially the seniority is maintained based on the date of receipt of application, provided all the documents are submitted in order. Followed by, if all the papers are in order the completion of inspection is considered as seniority. Subsequently, if fund is available



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the case is sanctioned and at this stage sanction date is taken as seniority. Finally, after the sanction depending on the receipt of Letter of Undertaking (LOU) from the applicant the disbursement is made. Even after the receipt of LOU, if it is noticed that the case is in contravention to the scheme guideline, the sanction letter may even be withdrawn. The above stated procedure was followed in this office during the MTF period."

22. They claimed that the funds were disbursed strictly on a seniority basis. It is stated that seniority is maintained based on the receipt of the applications, provided the applications are found to be in order. Accordingly, if the respondents assert that these petitioners submitted their applications later than those who were granted the subsidy, then this Court has nothing to intervene. However, that is not the case. Once the applications are found to be in order, the first respondent chose to inspect them. Even if it is asserted that the inspection was undertaken according to the application seniority, the petitioners' case is bound to fail. However, the respondents did not follow any criteria during the inspection, and they now categorically state that the date of inspection is considered the seniority afterwards, and the funds are sanctioned and paid. Thus, without following



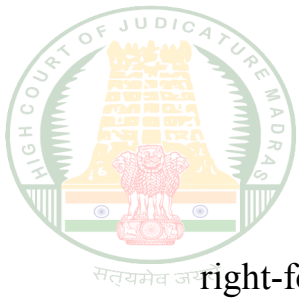
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any criteria, whimsically, whoever they preferred, the first respondent board
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inspected and granted the payment.

23. As a matter of fact, during the hearing, this Court specifically adjourned the matters, enabling the learned Additional Solicitor General of India to clarify any criteria followed by the first respondent. Nothing was forthcoming, and the same stance was reiterated. Therefore, this is a case where the first respondent board treated equals as unequals by arbitrarily picking and choosing the applicants for inspection and considering their inspection date as the date of seniority. Not even the seniority of applications was followed. This case demonstrates a complete lack of criteria and, as such, is a grave case of nepotism and arbitrariness. Therefore, the petitioners' claim should be allowed.

24. Once the scheme is floated and the funds are available, after disbursing them in a nepotistic manner, the argument relating to the no-



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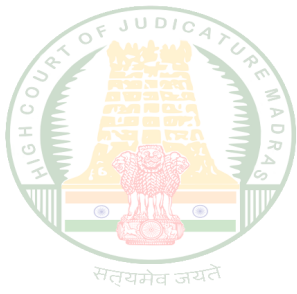
right-for-subsidy cannot be entertained. It is relevant to extract paragraph
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Nos.44 and 45 of the judgment of the Hon'ble Supreme Court of India in

Sivanandan C.T's case (cited *supra*), which reads as hereunder:-

"44. In a constitutional system rooted in the rule of law, the discretion available with public authorities is confined within clearly defined limits. The primary principle underpinning the concept of rule of law is consistency and predictability in decision-making. A decision of a public authority taken without any basis in principle or rule is unpredictable and is, therefore, arbitrary and antithetical to the rule of law. [**S.G. Jaisinghani v. Union of India, 1967 SCC OnLine SC 6**] The rule of law promotes fairness by stabilising the expectations of citizens from public authorities. This was also considered in a recent decision of this Court in **SEBI v. Sunil Krishna Khaitan [SEBI v. Sunil Krishna Khaitan, (2023) 2 SCC 643]**, wherein it was observed that regularity and predictability are hallmarks of good regulation and governance. [**SEBI v. Sunil Krishna Khaitan, (2023) 2 SCC 643**] This Court held that certainty and consistency are important facets of fairness in action and non-arbitrariness : (**Sunil Krishna Khaitan case [SEBI v. Sunil Krishna Khaitan, (2023) 2 SCC 643]**, SCC pp. 678-79, para 59)

"59. ... Any good regulatory system must promote and adhere to principle of certainty and consistency, providing assurance to the individual as to the consequence of transactions forming part of his daily affairs. [**Union of India v. Raghubir Singh, (1989) 2 SCC 754**. Also see, The Nature of the Judicial Process, Benjamin N. Cardozo, p. 33:"I am not to mar the symmetry of the legal structure by the introduction of inconsistencies and irrelevancies and artificial exceptions unless for some sufficient



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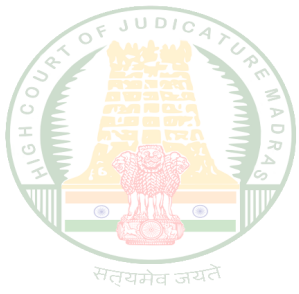
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reason, which will commonly be some consideration of history or custom or policy or justice. Lacking such a reason, I must be logical just as I must be impartial, and upon like grounds. It will not do to decide the same question one way between one set of litigants and the opposite way between another.”(emphasis supplied)] ... This does not mean that the regulator/authorities cannot deviate from the past practice, albeit any such deviation or change must be predicated on greater public interest or harm. This is the mandate of Article 14 of the Constitution of India which requires fairness in action by the State, and non-arbitrariness in essence and substance. Therefore, to examine the question of inconsistency, the analysis is to ascertain the need and functional value of the change, as consistency is a matter of operational effectiveness.”

(emphasis supplied)

45. The underlying basis for the application of the doctrine of legitimate expectation has expanded and evolved to include the principles of good administration. Since citizens repose their trust in the State, the actions and policies of the State give rise to legitimate expectations that the State will adhere to its assurance or past practice by acting in a consistent, transparent, and predictable manner. The principles of good administration require that the decisions of public authorities must withstand the test of consistency, transparency, and predictability to avoid being regarded as arbitrary and therefore violative of Article 14.”

Thus, if the first respondent board has committed itself to a promise and acted unlawfully in relation to that commitment, then relief must be granted to the petitioners.



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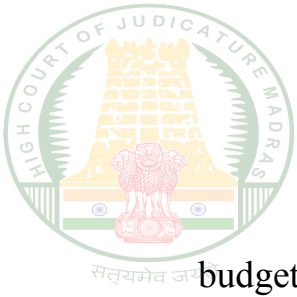
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25. The second submission made is the non-availability of funds. In this regard, it is essential to extract Rule 26 of the GFR Rules that is relied upon by the respondents, which reads as follows:

"Rule 26:- Responsibility of Controlling Officer in respect of Budget allocation: The duties and responsibilities of a controlling officer in respect of funds placed at his disposal are to ensure:

- (i) that the expenditure does not exceed the budget allocation.
- (ii) that the expenditure is incurred for the purpose for which funds have been provided.
- (iii) that the expenditure is incurred in public interest.
- (iv) that adequate control mechanism is functioning in his Department for prevention, detection of errors and irregularities in the financial proceedings of his subordinate offices and to guard against waste and loss of public money, and
- (v) that mechanism or checks contemplated at (iv) above are effectively applied."

26. It establishes the responsibility of the first respondent to ensure that their expenditure does not exceed the budget allocation. Therefore, this does not in any way authorize the first respondent board to spend money in violation of the law and then deny the claims of the petitioners based on the



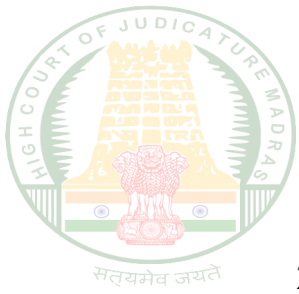
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budget. When a lawful due is not provided due to an unlawful act, the Court can always grant relief to the parties by directing the state to rectify the wrong done, and in this regard, the non-availability of budget can never be used as an excuse. It is well-established that lack of funds cannot serve as a defense for the State or statutory authorities.

27. Furthermore, in this case, the following assertions are made in paragraph No.44 of the counter-affidavit:-

"44. ... A provision of Rs.298.76 crore was made in EFC towards pending subsidy liabilities (of 12th Plan and MTF period) in the Tea Development and Promotion Scheme (TDPS) for 2021-22 to 2025-26. The approved modalities/scheme guidelines for implementation of TDPS, inter alia' provides "the financial assistance would be considered under the instant scheme only for those cases for which a formal sanction order has been issued, and either one or no instalment has been released, with priority given to those cases for which one instalment has been released, with priority given to those cases for which one instalment has been released subject to completion of such activities in conformity with the erstwhile scheme guidelines". An amount of Rs.127.65 Crores has been paid during the financial year 2020-21 and 2021-22. All eligible cases where subsidy was sanctioned have been disbursed by the Tea Board."



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28. When the learned Senior Counsel for the petitioners argued that the remaining funds, after Rs.127.65 crores have been spent, are more than sufficient to satisfy the total claim in all 28 Writ Petitions, which is only Rs.19,51,94,086/-, the learned Additional Solicitor General of India for the respondents submitted that even though the remaining funds are not disbursed, they are earmarked for various sanctioned subsidies. It may be so. It is the responsibility of the first respondent to oversee the disbursement of the amounts. It has committed a grave error. It ought to have presented all the total claims for each year and followed certain criteria; if the total amount is insufficient, it should have paid on a pro rata basis or adhered to a specific standard.

29. Having arbitrarily distributed the same, it is now up to the respondents to pay the petitioners as is done for similarly situated claimants. The provision for budgetary allocation is their responsibility. Whether from available funds, by requesting additional funds from the second respondent,



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or through any other method, the amount must be paid. Therefore, the
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argument that there is no right to claim a subsidy and that nothing can be done once the funds are exhausted cannot be accepted, given the facts and circumstances of the case.

30. Under these circumstances, these Writ Petitions are allowed on the following terms:

(i) The respective orders that were passed, rejecting the petitioners' applications for subsidy claims, stand quashed;

(ii) The respondents are directed to pay the subsidy amounts for Orthodox Tea Plucking as well as Replanting, as claimed by the petitioners, within a period of three months from the date of receipt of a web copy of this order;

(iii) There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

02.06.2025

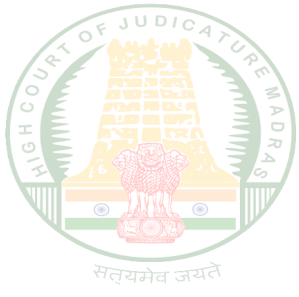


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Neutral Citation: yes
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grs

To

1. The Deputy Director of Tea Development,
Tea Board of India,
(Ministry of Commerce & Industry,
Dept. of Commerce, Govt of India),
'Shelwood', Club Road, P.O Box No.6,
Conoor - 643 101, Nilgiris.
2. The Secretary, Ministry of Commerce & Industry,
Department of Commerce,
Vanijya Bhawan,
New Delhi - 110 001.



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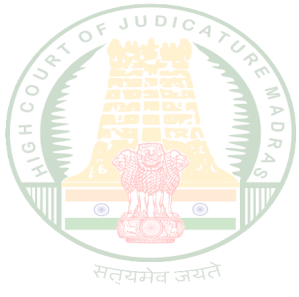
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D.BHARATHA CHAKRAVARTHY, J.

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