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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 15th February, 2023

+ **W.P.(C) 2619/2020**

RASHTRIYE BHAWAN NIRMAN SANGH Petitioner
 Through: Mr. Vivek Kumar, Advocate.
 (M:9811867703)

versus

DELHI BUILDING AND OTHER CONSTRUCTION WORKERS
 WELFARE BOARD (LABOUR DEPARTMENT) THROUGH
 SECRETARY Respondent

Through: Ms. Urvi Mohan, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner- Rashtriye Bhawan Nirman Sangh is a trade union, which is seeking the release of incentives in terms of the Incentive Scheme, which was floated by the Respondent- Delhi Building and Other Construction Workers Welfare Board (*hereinafter 'the Board'*) for motivating the Trade Unions to register the genuine construction workers. The said scheme to incentivise the registration of construction workers was renewed by the Board vide its order dated 30th October, 2015 bearing No. F.17(325)/DBOCWWB/2015/2770. The said order reads as:

“ORDER

The Delhi Building and other Construction Workers Welfare Board in its 27th meeting held on 12.10.2015 under the Chairmanship of Hon'ble Minister of Labour, being the chairman of the Board has approved enhancement in registration/renewal incentive from Rs.50/- to Rs. 100/- per case through registered trade unions connected with construction sector w.e.f. 23.10.2015.”

3. The case of the Petitioner is that it has made a total of 9 applications for the release of incentives, which have not been processed and the incentives are not being released.

4. Subsequently, vide Agenda Item No.11 in the Minutes of the 33rd Meeting of the Board held on 15th December, 2017, a decision was taken to discontinue with the said incentive scheme. The relevant extract of the said Minutes of the meeting are extracted hereunder:

*“Stoppage of Incentive to the Registered Trade Union working in Construction Sector.
The **Board has approved to discontinue the incentive scheme with immediate effect.**”*

5. It is the claim of the Petitioner that it is entitled for incentives for at least the period during which the incentive scheme was in operation. The prayers in the writ petition are as under:

“(a) Issue appropriate writ, order or direction in the nature of writ of mandamus or any other writ directing DBCOWWB to pay incentives to petitioner for the period between 30.10.2015 to 15.12.2017 pending before board and district officials;

(b) Resolution of Board dated 15.12.2017 be declared void till proper order is passed and it gets Confirmation of Lt. Governor.

(c) Till the proper order of DBOCWWB is issued and is approved by Lt. Governor, the incentives to the Petitioner as per order dated 30.10.2015 for registration/renewal of construction labourers be given.

(d) Cost of litigation be granted in favour of the petitioner.”

6. In the counter affidavit, the Respondent states that it has been able to trace only four applications of the Petitioner and the diary numbers for the

said four applications have been allotted. However, the Respondent has stated that the remaining applications are not traceable.

7. The stand of the Respondent, which has been filed by Shri Arun Kumar Jha, Secretary for the Board, is set out below:

“19. That in light of the above and also the shortage of staff being faced by the Board, the Answering Respondent, hereby prays for another 3 months, to be able to complete the exercise of tracing the 04 remaining applications (as mentioned above) as well as examining and verifying the already traced incentive claim applications of the Petitioner union (which are to be examined by the concerned District Authority(ies) for processing the payment accordingly, and as per the recommendation and verification of the district authorities). Upon and in accordance with the recommendations of the district authorities, the said claim applications shall be placed before the Board in next Board Meeting (tentatively scheduled to be held in the month of September, 2021) and the payment (as directed) shall be made to the Petitioner union as per the decision of the Board.”

8. Subsequently, in the Board's meeting which was held on 3rd September, 2021, the trade unions were heard and were requested to provide the applications for incentive or a copy of the same. The minutes of the meeting read:

“A meeting was convened by the Secretary DBOCWW Board in the conference room of DBOCWW Board on 03.09.2021 at 4:00 P.M. regarding the issues i.e. payment of incentive to various registered trade unions, who are working for construction workers.

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In the meeting, trade unions raised that their incentive claim applications are pending in the Board offices since long. These incentive claim applications were submitted

in the DBOCWW Board offices prior to 15.12.2017. The issue for payment of incentive to registered trade unions was discussed with the DBOCWW Board officers in the light of decision taken in the 33rd Board Meeting held on 15.12.2017 regarding the cut off date i.e. on or before 15.12.2017 for submission of incentive claim applications as decided in 34th Board Meeting held on 25.04.2018.

During the meeting, trade union members were requested to provide the copy of the incentive claim applications which were submitted in the district offices, so that the applications can be processed as it was informed that some of the files are not traceable in district offices.

In response, the trade unions assured that they will provide the copy of the same in the DBOCWW Board (HQ) for further consideration.

The Secretary (DBOCWW Board) assured that incentive claims submitted by the trade unions shall be sent to the concerned district for verification / authentication and same shall be placed in the next DBOCWW Board Meeting for decision.”

9. Ld. counsel for the Respondent submits that despite giving an assurance to the Board that the applications would be provided by the Trade Unions, the same have not been provided. Ld. counsel for the Petitioner wishes to seek instructions.

10. After having perused the record, the Court observes that there can be no dispute about the fact that insofar as incentive applications which were filed during the period when the incentive scheme was in operation, the incentives would have to be processed and disbursed, in terms of the said scheme.

11. Four applications have already been traced by the Respondent Board. The counter affidavit filed on behalf of the Board sought 3 months for

examining and verification of the incentive applications. A considerably long time has elapsed in this matter and there can be no justification for such a long delay.

12. Accordingly, considering the above facts and circumstances, the following directions are issued.

- (1) The Board shall process the four applications, which have been traced and have been allotted diary number expeditiously. The applicable incentive shall be released in terms of the scheme within a period of 3 months.
- (2) Insofar as the remaining applications are concerned, the Petitioner may approach the Secretary of the Board within one week and submit the details of the remaining 5 applications. Upon receiving the said application in hand, the diary number shall be allotted and online processes for the said applications shall also be made.
- (3) After processing of the applications, the Board shall consider the matter and release the applicable incentives. If the same are rejected for any reasons, a reasoned order in respect of the 9 incentive applications shall be passed.

13. Needless to add, any delay in processing of the due applications would be strictly viewed by this Court and the Petitioner is free to approach the Court, if the above order is not complied with.

14. The petition, along with all pending applications, is disposed of.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 15, 2023

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