

# **SUPREME COURT OF INDIA**

Ashok Paper Mills Kamgar Union

Vs.

Union of India (Uoi)

(S S Ahmad, G Pattanaik and M J Rao JJ.)

26.04.1999

## **ORDER**

### **S. SAGHIR AHMAD, J.**

1. The scheme of rehabilitation of Ashok Paper Mills in Darbhanga in the State of Bihar was finalised by this Court after prolonged negotiations by order dated July 6, 1996. More than two and a half years have elapsed, yet the implementation has not been possible for one reason or the other and the parties required to implement the scheme are putting forth blame on one side or the other. This Court had called upon by order dated July 8, 1996 to file a status report indicating what all has happened in the matter of implementation of the scheme and pursuant to the aforesaid order, the Secretary, Government of India, Department of Industrial Policy and Promotion in the Ministry of Industry has filed a status report. The said report indicates that the main obstacle in implementing the scheme by way of running the factory is the supply of power. Under the scheme, the State of Bihar had taken the responsibility of supplying uninterrupted power obviously in the interest of the hundreds of labourers who would have otherwise been disengaged if the factory would have come to a closure. From the status report it transpires that the State is not in a position to s(sic) uninterrupted power to the factory and, therefore, it was suggested that the alternative method of installing four diesel generating sets of 1000 KVA each should be adopted by the entrepreneur NCFL for getting the power in question. The Company wanted to utilise the term loan that was sanctioned by IDBI under the scheme but IDBI does not agree to any part of the term loan being utilised for this purpose as there would be a deviation of the scheme itself. Since the State of Bihar had undertaken the responsibility of continuous power supply to the Company and it has failed to discharge its obligation, we think that the State of Bihar should stand as a guarantor to the Company on whose guarantee the four diesel generating sets of 1000 KVA can be purchased for getting uninterrupted power supply. On query to Mr. K.K. Venugopal, learned senior Counsel appearing on

behalf of the Company he states that the approximate cost of these four diesel generating sets would be three crores. In the circumstances, we direct that the State of Bihar would stand guarantee for the supply of the aforesaid four diesel generating sets to the tune of three crores so that the difficulty in getting the power supply will stand obviated. The Company should give immediate proposal to the State of Bihar in this regard and on getting the said proposal, within three weeks from the receipt of the proposal appropriate orders may be passed by the State of Bihar for standing guarantee to the tune of rupees three crores to meet the costs of the four diesel generating sets.

2. The further dispute is with regard to the labour union who were under the scheme required to sign the tripartite agreement. Under the scheme in question Ashok Paper Mills Kamgar Union was to enter into an agreement on behalf of the labourers. From the status report as well as other documents presented before us in this proceeding it appears that the President of the said Kamgar Union though initially had participated in deliberations but later on resiled from entering into an agreement. According to Mr. Rakesh Dwivedi, learned senior Counsel appearing for the said Union, the Union was all along prepared to enter into the agreement but it is the manoeuvring of the Management which prevented them from entering into an agreement and the agreement has been entered into by another registered union, namely, Ashok Paper Mills Mazdoor Panchayat Union which is represented by Mr. Mishra in this Court. Without delving into the question as to whether the Kamgar Union itself did not participate in the proceedings and did not enter into an agreement or the Union was prevented by some other process since a registered union has already entered into an agreement and that such Union has a membership of 243, we think it appropriate to hold that the said agreement would be a valid agreement for the purpose of implementation of the scheme. But at the same time, we also grant an opportunity to the Kamgar Union to enter into the agreement with the same terms which had already been entered into by the other Mazdoor Panchayat Union and this may be done within a period of four weeks from today and if such an agreement is entered into within this period then this will be in accordance with the terms of the scheme itself.

3. If, however, the Kamgar Union does not enter into any agreement within four weeks from today then they cannot complain of another union having already entered into the terms with the Company and the individual members of the Union, those who are interested in abiding by the agreement already entered into by the other union, can do so on their own and this should be also in compliance with the scheme that has been approved by this Court.

4. IAs Nos. 3 and 5 have been filed by NCFL for further directions from this Court. Response of IDBI may be obtained on the same and they shall be listed after the summer vacation.

5. The impleadment application argued by Mr. P.S. Mishra, learned Counsel on behalf of Ashok Paper Mills Mazdoor Panchayat Union is allowed.