

SUPREME COURT OF INDIA

Dayakar Reddy

Vs.

M.D. Allwyn Auto Ltd.

(G.T. Nanavati and S.N. Phukan JJ.)

02.02.2000

ORDER

1. This special leave petition was listed for final hearing as it involves the question of closure of a company and the consequent fate or the workmen employed by the company. It was, therefore, heard at length. After considering the material on record and the rival submissions, we are of the opinion that the State Government was justified in granting permission for closure under Section 25(O) of the Industrial Disputes Act.

2. Allwyn Auto Ltd. was not a sick company taken to BIFR. The company which had become sick was Hyderabad Allwyn Ltd. Under the Scheme framed by BIFR, the Auto division of Allwyn was to be transferred to Allwyn Auto Ltd. To implement the Scheme, Allwyn Auto Ltd. was brought into existence in 1993. It was a State Government Undertaking. Under the Scheme certain amount of fund was to be made available to this company by the Government and the transferee company namely, Voltas Ltd, was to allow it to continue to occupy the premises available to it under a lease, for a period of 6 years from 1993. It was expected of Allwyn Auto that it will make some profit towards the end of five years and become a viable unit. However, the hopes turned out to be false because in spite of the Government pumping in about Rs. 13 crores, the company went on making losses and the total loss by the year 1997 was about Rs. 12 crores. The lease was also expiring in 1998 and there was no possibility of getting it extended any further. The company and the Government found it difficult to get any other location where it could set up the unit afresh. It was under these circumstances, that the company decided to close down its undertaking. Therefore, it cannot be said that the decision of the company to close down was not bona fide.

3. After the proposal was received by the Government, discussion had taken place with the trade unions and the representations of the workmen on many occasions. A Voluntary Retirement Scheme was also proposed. Two meetings took place before the Labour Commissioner. After taking into consideration the material which was available with it, the State Government took the decision that the company deserved to be closed down.

4. It was contended by Mr. P.S. Mishra, learned senior counsel for the-petitioner that in this case the State had suggested that the company should be closed down and it was the same State which then decided under Section 25(O) to grant permission for closure. In a case where the company is a State Government Undertaking, such a situation may arise. It has to take an administrative decision first and then a quasi judicial decision under Section 25(O). What we find is that while exercising its power under Section 25(O) it did follow the proper procedure and consider all the relevant aspects.

It is not possible to find any fault with the decision of the State Government. The facts of this case are very eloquent. However, by the time the Government took the decision, out of 1800 workers, 1200 workers had shown their willingness to accept the Voluntary Retirement Scheme. The G.O. dated 16.6.97 clearly discloses the reasons why the company had become unviable and why it was not able to carry on its activity any further. The reasons appear to be genuine and adequate and therefore the Government was justified in granting permission for closure of the company. This special leave petition is therefore dismissed.

5. However, in order to see that the workmen who had not opted for any of the two Schemes the Voluntary Retirement Scheme or the Special Rehabilitation Scheme are not deprived of the benefit of the Scheme applicable to them, we extend the date for making an application for that purpose till March 1, 2000. We direct the company to extend the benefit of the applicable Scheme to all the workmen who want to avail of it. The company is also directed to make payments within one month from the date of making an application to those workmen who have not applied so far and within 15 days to all those who have given their options earlier.