

PETITIONER:
ASHOK PAPER MILLS KAMGAR UNION

Vs.

RESPONDENT:
UNION OF INDIA & ANR.

DATE OF JUDGMENT: 01/09/2000

BENCH:
S. Rajendra Babu, J. & S.N. Phukan, J.

JUDGMENT:

RAJENDRA BABU, J. :

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By an order made on July 6, 1996, this Court finalised the scheme of rehabilitation of Ashok Paper Mills in Darbhanga in State of Bihar. However, that scheme could not be given effect to due to one reason or the other and this Court on April 26, 1999 considered various aspects of the matter and made an order on I.A.No.13 in W.P. (C) No. 174/91.

After considering the various circumstances, this Court directed that State of Bihar should stand guarantee for the supply of four diesel generating sets to the tune of three crores so that the difficulty in getting the power supply would stand obviated and the company should give the proposal to the State of Bihar in that regard upon which appropriate orders should be passed by the Government. It was specifically noticed that the petitioner union, though was all along prepared to enter into the agreement but somehow it could not be done but subsequently another registered union, viz., Ashok Paper Mills Mazdoor Panchayat Union entered into an agreement. This Court stated on the agreement entered into with the latter Union in the following terms :

.. 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 the such Union has membership of 243, we think it appropriate to hold that the said agreement would be valid agreement for the purpose of implementation of the scheme. But at the same time, we also grant an opportunity to Kamgar Union to enter into an agreement with the same terms which has 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.

If, however, Kamgar Union does not enter into any agreement within four weeks from today then they cannot complain of other 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 accordance with the scheme that has been approved by this Court.

Thereafter a review petition was filed questioning the correctness of this order. However, that review petition stood dismissed.

It is the contention of the Petitioner that under the scheme finalised by this Court on 6.7.96, clause 1.4 has not been implemented in the true spirit thereof; that the take-over, though was originally stated to be from 18.8.97, subsequently the monitoring committee fixed the date to be 26.12.1997, even so within six months thereof, the work force has not been absorbed by NCFL nor entered into a tripartite agreement between the workers union, Government of Bihar and NCFL much less any of the past liabilities have been discharged; that the NCFL has also not paid workers their monthly salary @ 50% of their last earned salary of the month when production was not terminated; that, Shri Umadhar Prasad Singh informed that he was agreeable to sign the agreement provided some changes are made in the draft tripartite agreement; that the suggestions made by him were discussed by the monitoring committee, found to be reasonable and should be included in the tripartite agreement; that no such agreement was entered into but on the other hand an agreement has been entered into with another union; that a secret letter was sent by the Labour Commissioner on May 4, 1998 stating that the said Shri Umadhar Prasad Singh, President of the Petitioner union has been adopting an attitude of non-cooperation and was taking an aggressive stand, though there was merit in the claim made by him in regard to fixation of wages which should be covered by the prescribed norms of industry based on the length of service, experience, technical knowledge, acquisition of skills and if unskilled then the knowledge of the work which the worker had acquired during the course of work; that a memorandum of tripartite agreement was arrived at by NCLF and, on behalf of the workmen, by the Ashok Paper Mills Mazdoor Panchayat Union on May 20, 1998 had almost surrendered their normal claims of workmen for which the Petitioner union has been fighting all along; that the said agreement was entered into by maneuvers of the management of NCLF and, therefore, we should not take note of the same but give effect to clause 1.4 of the scheme finalised by this Court independently.

Whether there is any merit or none in the arguments on behalf of the applicant in I.A.No.13, it is not possible for us to go back on the order made by this Court on 26.4.1999 and the order made on the review petition. Though Ms. Indira Jaising, learned senior counsel appearing for the applicant, very strenuously and forcefully submitted that the order made by this Court on 26.4.1999 is only an interlocutory order, we do not think that it would be correct to state so because the specific manner in which the scheme had to be implemented has been considered by this Court in the aforesaid order. The very arguments advanced before us now had been raised in the review petition but rejected. Therefore, we reject this contention too. However, we make it clear that any of the workman who is a

member of the Petitioner union may also be permitted to join the work in the NCFL on the terms and conditions stated under the memorandum of tripartite agreement to which reference has been made by this Court in the orders adverted to above, if such claim is made within a period of one month from the date of this order.

Interim Application No. 8/2000 in I.A.Nos.3 & 5 in Interlocutory Application No. 13 has also been filed seeking to restrain Shri Umadhar Prasad Singh and his associates and/or agents from interfering or obstructing in the reopening/rehabilitation of Ashok Paper Mills Ltd. and free ingress and egress of personnel of the Mill and movement of goods inside and outside of the mill and to give direction to all the persons and concerned agencies for the implementation of the scheme. It is now brought to our notice that the mills have started functioning and, therefore, it is not appropriate to pass any order on this relief at this stage. So far as the other relief sought for as to co-operation of other agencies is concerned, it is not clear as to what relief the applicant wants and in respect of whom, without which no appropriate direction can be granted by this Court. Therefore, this relief also cannot be granted at this stage and in the manner sought for. This application shall stand disposed of accordingly.