

PETITIONER:
M/S ASHOK PAPER MILLS KAMGAR UNION

Vs.

RESPONDENT:
UNION OF INDIA & ORS.

DATE OF JUDGMENT: 01/05/1997

BENCH:
K. RAMASWAMY, S. SAGHIR AHMAD, G.B. PATTANAIAK

ACT:

HEADNOTE:

JUDGMENT:
Present:

Hon'ble Mr. Justice K.Ramaswamy
Hon'ble Mr. Justice S.Saghir Ahmad
Hon'ble Mr. Justice G.B.Pattanaik

R. Venkataramani and S.M. Garg, Advs. for the Petitioner
V.R. Reddy, Additional Solicitor General, A.S. Nambiar,
Harish Salve, Sr, Advs., Ms. Binu Tamta, D.S. Mehra, A.K.
Ghose, M. Mishra, Ms. Sangeeta Mandal, Chandra Bhushan
Prasad, Ranjit Kumar, B.B. Singh, E.C. Agarwala, Advs. with
them for the Respondents.

O R D E R

The following Order of the Court was delivered:

The Scheme for rehabilitation of the Ashok Paper Mills situated in Darbhanga in the state of Bihar came to be finalised after a prolonged negotiation and after extension of time given by this court from time to time and it came to be approved by this court on July 8, 1996. It is rather very unfortunate that when the implementation part has come up, some spokes have been put in attempting to re-start the functioning of the factory. Attempts are to undo the scheme which conduct is highly reprehensible and cannot be approved of. Nonetheless, we are not pointing out the intention of any individual. The technicalities have been put up in the usual bureaucratic manner to see that the scheme is not put into operation. Some objections came to be raised by the IDBI for the grant of the loans for rehabilitation. We directed the Cabinet secretary to look into the matter after hearing all the parties and sort out the problems. When Shri R. Venkataramani, learned senior counsel appearing for the petitioner, requested that it may be given permission to participate in the deliberations before the cabinet Secretary and an opportunity of hearing may be given to them, we gave the directions accordingly. Now, a report has been filed by cabinet secretary stating that IDBI is backing out and is not prepared to give the finances. This would indicate the typical beaurocratic sickler to the letter of law sacrificing the spirit behind the direction so that the executive itself, without further necessity of judicial intervention, may solve the problem, for the proper and true implementation of the Scheme.

We have heard Mr. Harish Salve, learned senior counsel appearing for the IDBI, Shri V.R. Reddy, learned Additional Solicitor General appearing for the union of India and Mr. R. Venkataramani, learned counsel appearing for the petitioner. Shri Harish Salve points out that certain technicalities are standing in their way due to the instructions issued by the RBI. They have not agreed in the meeting held on June 20, 1996 that the IDBI should agree to release of the loans on the collateral security being given by the promoters to the extent of Rs. 10 crores. Now affidavit has been filed by Mohd. Zakir who participated in the meeting on behalf of IDBI; obviously, he is now trying to back out from the acceptance to the proposal he agreed in the meeting. In fact, the Industry Secretary in his letter has categorically pointed out consensus in that behalf reached on June 20, 1996. We have little doubt to accept the correctness of the statement made by the Industry Secretary. Due to the change in the circumstances, viz., Mr. R.P. Chhabra having taken over the charge as Chief General Manager, the IDBI seems to have raised the objections to the implementation of the Scheme. Mr. Chhabra is present in Court, we have heard Mr. Chhabra in person. We are not satisfied with his explanation. We think that the attitude of the IDBI is reprehensible and cannot be condoned. The Financial Institution when it is called upon to build up India as industrial country among world nations, it is under duty to ensure industrial growth of the country. When Scheme framed was approved by this Court, it is but its duty to see that the same is implemented. It is unfortunate that such an attempt has not been made by the IDBI, instead of doing it, it has been a self help to the persons managing etc. Therefore, we direct that all the persons and institutions concerned should participate in the implementation of the scheme and Finance Secretary, Ministry of Finance, Government of India is directed to ensure that the legal conditions are fulfilled and the mill is rehabilitated and both, Phase-I and Phase II of the Scheme are given effect to. The arrears to workmen would be taken care by the Committee during the process of implementation. The application is accordingly ordered.

It is hereby directed that the authorities should ensure the implementation of the scheme framed by Government of India and approved by this Court. If anyone stands in the way by surreptitious technicalities in the implementation of the Scheme, it is hereby made clear that such technicalities would not stand in the way of the implementation of the scheme and the same will be seriously dealt with.