

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.111 OF 1995

THE HON'BLE MR. JUSTICE Y.B. BHATT

Mr. A.K. Clerk, advocate for the petitioner.

1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: Y.B.Bhatt J.

Date:20th July 1995

JUDGEMENT

1. The petitioner Union has filed this petition under Article 226 of the Constitution of India in respect of the 4th respondent, which has been declared to be a sick industry within the meaning of Sick Industrial Companies (Special Provisions) Act, 1985. The appropriate proceedings in this regard are pending before the Board for Industrial Finance and Reconstruction. It appears that a scheme for revival was proposed and the Board, after considering all relevant factors, appointed second respondent as the Operating Agency. From the submissions made by the learned counsel for the

petitioner it also appears that a report has been furnished by the Operating Agency in negative terms i.e. the said report is not favourable as regards prospects of revival. It may also be noted that the petitioner union had actively participated in the proceedings before the Board.

2. It is broadly under these circumstances that the petitioner has approached this court for the reliefs stated in para 21 of the petition, which obviously cannot be granted. So far as prayer (A) is concerned, it seeks a mandamus from this court whereby the Operating Agency would be directed to examine the scheme proposed by the petitioner union. Obviously this prayer cannot be granted inasmuch as this court has no jurisdiction to interfere with the proceedings which are already in progress before the Board. In any case, there is no warrant for any presumption that the Operating Agency has refused or would refuse to examine the scheme proposed by the petitioner. So far as prayer (B) is concerned, again this court has no jurisdiction under Article 226 of the Constitution of India to issue any mandatory directions to the State Government to contribute any specific amount of the workers' contribution to the scheme proposed by the petitioner union from the National Renewal Fund. As already stated hereinabove, the revival scheme is already the subject matter of the proceedings before the Board. The proceedings before the Board, particularly when they are in progress and have not resulted in any final order, are not subject to the supervisory jurisdiction of this court under Article 227 of the Constitution of India. In the premises aforesaid, there is no warrant to interfere with such pending proceedings by exercising powers under Article 227 of the Constitution of India. This petition is, therefore, rejected.

3. At the request of learned counsel for the petitioner I may, however, observe that it shall be open to the petitioner union to make such submissions before the Board as it may choose to do, or may be advised, looking to the particular facts and circumstances of the case.

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