

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (C) No.1657 of 2020

M/s Shree Dadisah Metals Pvt. Ltd. having its office & works at
Adityapur Industrial Area, Phase VI, Plot No. NS 112, Adityapur, P.O.
Adityapur, P.S. Gamharia, District-Saraikella Kharsawan represented
through its Authrized Signatory Manoranjan Kumar Singh

.... Petitioner

Versus

Jharkhand Urja Vikas Nigam Ltd. through its Chairman-cum-Managing
Director, Ranchi & Others

... Respondents

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI

For the Petitioner : Mr. Dhananjay Kr. Pathak., Advocate

For the Respondent-JUVNL: Mr. Rajiv Ranjan, Sr. Legal Advisor

Mr. Sachin Kumar, Sr. Standing Counsel

14/17.04.2021 Heard Mr. Dhananjay Kr. Pathak, learned counsel for the petitioner and Mr. Rajiv Ranjan, learned Senior Legal Advisor and Mr. Sachin Kumar, learned Sr. Standing Counsel appearing for the respondent-JUVNL.

This writ petition has been heard through Video Conferencing in view of the guidelines of the High Court taking into account the situation arising due to COVID-19 pandemic.

This matter has been assigned to this Court. Thereafter this matter was heard on several dates.

Prayer in this writ petition has been made for direction to issue No Objection Certificate to the petitioner for obtaining the electricity connection from the other licensee of the locality namely, JUSCO. The further prayer is made for release of the cash security and release the Bank Guarantee. The prayer is also made for quashing the Provisional Final Bill dated 11.05.2020.

On several dates, this matter was heard and affidavits of the parties were exchanged in the light of order of the Court.

Mr. Dhananjay Kumar Pathak, learned counsel appearing on behalf of the petitioner submits that petitioner has deposited cash amount of Rs. 1,12,23,226/- as security. He further submits that the petitioner has deposited Security Deposit of Rs. 1,89,41,205/- through bank guarantee against the remaining security deposit. He further submits that petitioner has moved in another writ petition being W.P.(C) No. 4459 of 2017 challenging the provisional assessment order dated 21.07.2017 and in that writ petition interim order dated 04.08.2017 has been passed directing the

respondents to accept Rs. 50 lacs against the provisional assessment order and restore the electrical connection. He further submits that pursuant to that order the petitioner has deposited that amount and the electricity connection was got restored. He submits that another writ petition is already there with regard to provisional assessment and interim order is there. He submits that petitioner is ready to co-operate with the respondent-JUVNL and bank guarantee is already there with the respondent-JUVNL. He submits that in the same line the respondent-JUVNL has provided No Objection Certificate in absence of any cash and bank guarantee in favour of industry that too on the basis of affidavit and this aspect of the matter has been brought on record by way of supplementary-affidavit dated 08.03.2021 filed on behalf of the petitioner. On these grounds, learned counsel for the petitioner submits that both the writ petitions may be heard together however industry is required to be run and in the meantime may the NOC be issued in favour of the petitioner.

Mr. Rajiv Ranjan, learned Senior Legal Advisor appearing on behalf of the respondent-JUVNL submits that so far cash amount is concerned, the respondent-JUVNL has already adjusted and the bank guarantee is there. He submits that both the writ petitions are required to be heard together.

In view of above facts and considering the submissions of the learned counsel for the parties, the Court finds that there is statement in para 24 of the writ petition about the cash deposit and bank guarantee and this aspect of the matter has been admitted by the learned counsel for the respondent-JUVNL. So far as provisional assessment order is concerned, that is subject matter of the another writ petition which is pending before the Court having roster. Sufficient amount of Rs. 1,12,23,226/- has already been deposited by the petitioner which was adjusted by the respondent-JUVNL and Security Deposit of Rs. 1,89,41,205/- through bank guarantee is there with the respondent-JUVNL.

In the supplementary affidavit dated 08.03.2021, it has been stated that in sub-judice matter the respondents have issued provisional final bill/NOC keeping the sub-judice amount in abeyance after taking an affidavit from the concern consumer, sworn before First Class Magistrate to the effect that the JBVNL shall be entitled to recover the kept in abeyance amount along with DPS, as payable amount cannot be ascertained during the pendency of the case. Such communications and the consequent energy

bill are annexed as Annexure-SA-1 series to supplementary affidavit.

In view of aforesaid facts and considering that the sufficient amount has been deposited by the petitioner before the respondent-JUVNL and bank guarantee deposited by the petitioner is still there and considering the affidavit brought on record, it is desirable that in the interest of justice respondent-JUVNL may issue No Objection Certificate to the petitioner to enable to run industry by way of taking electrical connection by other licensee.

Thus, respondent-JUVNL is directed to issue No Objection Certificate in favour of the petitioner subject to result of the writ petition. The respondent-JUVNL is at liberty to get the bank guarantee and petitioner will keep the bank guarantee alive as stated in para 24 of the writ petition till disposal of the writ petition.

The respondent-JUVNL in terms of these conditions shall issue No Objection Certificate in favour of the petitioner within four weeks. This order has been passed in terms of arrangement so that industry of the petitioner may not stop and function smoothly. In view of provisional assessment order challenged in W.P.(C) No. 4459 of 2017, it is desirable that this writ petition may be heard along with W.P.(C) No. 4459 of 2017.

It is open to the parties to mention this matter before Hon'ble the Chief Justice for tagging this writ petition along with W.P.(C) No. 4459 of 2017 and as such both the writ petitions be decided by one Bench so that there may not be any contradiction with the Co-ordinate Bench of the Court.

(Sanjay Kumar Dwivedi, J.)

Satyarthi/-