

GAHC010019432020



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C) 575/2020

1:HINDUSTAN PAPER CORPORATION LTD. OFFICERS AND SUPERVISORS
ASSOCIATION HAVING ITS REGISTERED OFFICE AT KAGAJ NAGAR,
JAGIROAD, DIST. MARIGAON, ASSAM, REP. BY ITS GENERAL SECRETARY
SRI KRISHNA KANTA SUTRADHAR

2: HEMANTA KUMAR KAKATI
S/O LT. KESHOB CHANDRA KAKATI
R/O HPC TOWNSHIP C 18/4 KAGAJ NAGAR ASSAM
JAGIROAD DIST. MORIGAON ASSAM PIN-782413

3: KRISHNA KANTA SUTRADHAR
S/O AMULYA SUTRADHAR
R/O HPC TOWNSHIP B 9/4 KAGAJ NAGAR
ASSAM JAGIROAD DIST. MORIGAON ASSAM PIN-78241

VERSUS

1:THE UNION OF INDIA AND 6 ORS.
REP BY THE SECRETARY TO THE GOVT. OF INDIA, MINISTRY OF HEAVY
INDUSTRIES ANS PUBLIC ENTERPRISES, GOVT OF INDIA, UDYOG
BHAWAN, NEW DELHI-110011

2:HINDUSTAN PAPER CORPORATION LTD. REP .BY ITS CHAIRMAN CUM
MANAGING DIRECTOR HAVING ITS CORPORATE HEAD QRTR AT
KOLKATA 75-C PARK STREET WEST BENGAL AND REGISTERED OFFICE
AT NEW DELHI 4 THE FLOOR SOUTH TOWER SCOPE MINAR LAXMI
NAGAR DIST CENTRE NEW DELHI-110092

3:HINDUSTAN PAPER CORPORATION LTD. EMPLOYEES CONTRIBUTORY
PROVIDENT FUND TRUST REP. BY CHAIRMAN OF BOARD OF TRUSTEES
KOLKATA 75-C PARK STREET WEST BENGAL

4:THE REGIONAL PROVIDENT FUND COMMISSIONER EPFO
REGIONAL OFFICE AT PARK STREET KOLKATA

5:THE EMPLOYEES PROVIDENT FUND REP. BY THE ADDITIONAL
CENTRAL PROVIDENT FUND COMMISSIONER HAVING ITS OFFICE AT

BHAVISHYA NIDHI BHAWAN G.S. ROAD BHANGAGARH GUWAHATI-
781005

6:INCOME TAX DEPTT. REP.BY THE CHIEF COMMISSIONER OF INCOME
TAX NORTH EASTERN REGION HAVING ITS OFFICE AT AAYKAR BHAWAN
G.S. ROAD CHRISTAN BASTI GUWAHATI-781005

7:KULDEEP VERMA
THE OFFICIAL LIQUIDATOR 46 B.B. GANGULY STREET
5TH FLOOR ROOM NO. 501 KOLKATA-70002

For the Petitioners : Mr. K.N. Choudhury, Senior Advocate.
Mr. R. Singha, Advocate.

For the Respondents : Mr. P.K. Roy, Advocate for respondent Nos.4 & 5.
Mr. A. Chakraborty, Advocate.
Mr. S. Sarma, Advocate for respondent No.6.

- B E F O R E -
HON'BLE THE CHIEF JUSTICE MR. AJAI LAMBA
HON'BLE MR. JUSTICE SOUMITRA SAIKIA

ORDER

Date : 05-02-2020
(Ajai Lamba, C.J.)

Petitioner No.1 is Association of Employees serving in Nagaon Paper Mill, a factory owned by Hindustan Paper Corporation Limited (for short, "HPCL") at Jagiroad. It has been pleaded that till February, 2017, the employees received their salary, however, the same is due to be paid since March, 2017. Production in the factory has been suspended since 13.03.2017 without notification. The employees were attending to their duties in the Mill, however, w.e.f. 24.12.2019, the Official Liquidator appointed by National Company Law Tribunal, New Delhi notified the employees not to attend duty.

2. It has been pointed out by Mr. K.N. Choudhury, learned senior advocate that application was moved by M/s Alloys & Metals (India) before NCLT, New Delhi to seek recovery of debt in the sum of ₹ 98 Lakhs from HPCL, whereafter Mr. Kuldeep Verma was appointed as the interim resolution professional. As a result of admission of corporate insolvency resolution process, the Board of Directors of HPCL became defunct and the entire administrative and financial affairs of the Board were taken over by Mr. Kuldeep Verma by virtue of orders passed by NCLT.

3. The main contention of learned senior counsel is that HPCL is fully owned, controlled, monitored and managed by Government of India as such Insolvency and Bankruptcy Code, 2016 and Corporate Insolvency Resolution Process would not be applicable in regard to HPCL, the same being a Government Company within the meaning of Section 2(45) of the Companies Act, 2013.

It has been asserted that HPCL is a Government Company within the meaning of Sections 6 & 7 of the Companies Act, 1956, also whose 100% shares are being held by Government of India in the name of the President of India. The provisions of Insolvency and Bankruptcy Code, 2016 and in particular Section 3(a), Section 23, Section 7, Section 8, Section 9 and Section 238 are not applicable to Government Companies.

4. We have confronted Mr. Choudhury with the legal situation that litigation against HPCL is already going on before the NCLT, New Delhi. The issue as raised before this Court can be raised before that forum and might already have been raised. Mr. Choudhury, however, states that no such objection has been raised by HPCL before NCLT, New Delhi, its appellate forum or before any other forum in the country.

5. On request, list on **12.02.2020**.

6. The response filed by HPCL before NCLT, New Delhi and the documents filed before National Company Law Appellate Tribunal be produced on the next date fixed.

JUDGE

CHIEF JUSTICE

Comparing Assistant