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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (C) 1062/2020

CACHAR PAPER PROJECT WORKERS

UNION (INTUC)

..... Appellant

Through: Mr. Colin Gonsalves, Sr. Adv. With
Mr. Siddharth Seem, Advocate.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Dev P Bhardwaj, CGSC for UOI.
Mr. Vivek Sibbal, Advocate for R-2.
Mr. Rajesh Kumar, Adv. For EPFO.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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24.04.2020

CM APPL. 10387/2020 & CM APPL. 10390/2020

1. The hearing was conducted through video conferencing.
2. Issue notice.
3. The learned counsel for the parties, named above, accept notice.
4. This application seeks release of monies to the workmen in terms of this Court's previous orders dated 28.01.2020 and 25.02.2020. The workmen have been without any pay for the past about 40 months. Their difficulty is further compounded by the absolute lockdown because of the worldwide pandemic. Mr. Vivek Sibbal, the learned counsel for the Liquidator has filed an affidavit stating, inter alia, that Rs. 42.80 crores have already been transferred into the account of the Regional Provident Fund Commissioner (RPFC) (EPFO), Kolkata and the same could be released to roughly

1200 workmen to whom monies owed. The company's audited statement completed by M/s Manish Barelia & Co., Chartered Accountants, were submitted by the Liquidator to the said RPFC on 20th January 2020. The Court would note that, three months have gone by and the RPFC ought to have verified the audited statement by now, especially in view of the peculiar circumstances of this case and the aforementioned previous orders.

5. The learned counsel submits that for immediate monetary succour, 20.58% of the monies payable to each workman, could be released, as per the audited statement. This 20.58% disbursement will exhaust the Rs.42.80 crores which have already been transferred to the relevant EPFO. If any workman has been paid extra monies, the same shall be recovered and/or adjusted through their respective accounts.

6. In view of the above, let Rs.42.80 crores be disbursed to the workmen in terms of the list provided by M/s Manish Barelia & Co., Chartered Accountants, within a period of one week from the date of receipt of copy of this order.

7. The learned counsel for the Liquidator further submits that large sums of monies and securities of the company are still to be remitted to the RPFC. These are monies held with UCO Bank, HDFC Bank, ICICI Prudential Mutual Fund. He submits that Reserve Bank of India's permission for transfer of the securities to EPFO may be required.

8. In the circumstances, if no permission is required from any agency or authority, then the company's funds lying deposited with

UCO Bank and HDFC Bank shall be transferred by the said Banks to the Regional Provident Commissioner, (EPFO), Kolkata. RPFC/EPFO, Kolkata within one week from the date of receipt of copy of this order. Apropos the securities lying with ICICI Prudential Mutual Fund and HDFC Bank, the Court is informed that the said entities are already in correspondence with the RBI, seeking requisite permission. The RBI is directed to take an urgent view in the matter, preferably within a period of two weeks from the date of receipt of a copy of this order, in view of the exigent needs of the workmen.

9. The funds later received by the RPFC/EPFO from the aforementioned two Banks and from ICICI Prudential Mutual Fund, shall be disbursed to the workmen on a pro-rata basis as may be determined by the RPFC, as per its verification of the list of workmen provided by M/s Manish Barelia & Co., Chartered Accountants. This verification exercise shall be carried out within two weeks from date of receipt of copy of this order. However, for the workmen's immediate financial relief the Rs.42.80 crores already lying with the RPFC/EPFO, shall be disbursed to the roughly 1200 workmen, as per the List provided by the Chartered Accountant.

10. At this stage, Mr. Gonsalves, the learned Senior Advocate for the petitioner, submits that the Government of India has to pay its part of the statutory dues to the employees, of an amount of Rs.90 crores, which received a Parliamentary grant in July 2018. He refers to page 75 of the petition. Mr. Bhardwaj, the learned Standing Counsel for the Government of India, seeks time to obtain instructions in this regard.

11. List for compliance on 21.05.2020.

12. Mr. Bhardwaj, the learned CGSC is directed to supply a copy of this order to the learned Standing Counsel for the RBI for due compliance. A copy of this order shall also be supplied by the learned counsel for the parties and by the Registry to the branch office concerned of UCO Bank, HDFC Bank and ICICI Prudential Mutual Fund and their respective nominated counsel, if any.

13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsel for the parties through email.

NAJMI WAZIRI, J

APRIL 24, 2020/kk