

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Company Petition No.45 of 2012 (O&M)
Date of decision: 9.2.2015

In the matter of

Haryana State Minor Irrigations and Tubewells Corporation Ltd.

.....Petitioner

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Babbar Bhan, Advocate for the petitioner.
Mr. Ashwani Bakshi, Advocate for the applicant in 385 of 2013.
Mr. Anand Chhibbar, Senior Advocate with
Mr. Gaurav Mankotia, Advocate.
Mr. Raj Kaushik, Advocate for the objectors.
Mr. Raman B. Garg, Advocate for the objectors.
Mr. K.L. Khanna, Advocate
Mr. Virender Kumar, Advocate for the respondent-workmen.
Mr. Ramesh K. Jain, Advocate.
Mr. Divay Sarup, Advocate with
Assistant Official Liquidator.
Mr. Gagandeep S. Wasu, Addl. Advocate General, Haryana.

Rajesh Bindal J.

The present petition has been filed by the Haryana Minor Irrigations and Tubewells Corporation Limited under Section 433 (a), (c) and (f) of the Company's Act, 1956 for its winding up.

The plea, inter alia, raised in the petition is that the petitioner company has incurred heavy losses and is lying closed since 2002. Its financial condition is so bad that has no money to pay the creditors and meet its current liabilities. Even in the present petition it is not disputed that the retiral and terminal benefits have not paid to its all ex-employees.

Notice in the present petition was issued on 4.7.2012. It was directed to be published in the newspapers and the Official Gazette of State of Haryana. Thereafter, number of applications were filed by the employees of the company claiming that their dues have not been cleared.

Learned counsel for the employees/ex-employees also stated that number of cases are pending in this court filed by the employees/ex-employees of the petitioner-company, which have not been disclosed in the petition filed. It has been further stated that number of properties owned by the petitioner-company were transferred to the State without consideration.

Though this petition is pending in this court for the last more than two years, but, till date the claims made by the employees/ex-employees have not been settled.

On 1.4.2014, this court passed the following order:-

“Mr. Bhardwaj has produced a calculation sheet in terms of the order dated 20.1.2014. The same is taken on record since Mr. Bhardwaj represents the Corporation. He has handed over one copy to Mr. Kawatra. Mr. Kawatra to seek instructions from the Chief Secretary to the Government of Haryana as to the mode in which the debt owed to the workers can be under written by the State without touching the 18 properties as at present advised by the learned counsel.

Mr. Chhibber points out that the papers produced by Mr. Bhardwaj speak only of gratuity and of leave encashment. There are cases in which Mr. Bhardwaj submits that recoveries have to be made under the head of leave encashment since the Corporation had passed an order that the leave encashment would be available only for 30 days and not 300 days.

Mr. Bhardwaj submits that there is pending litigation in various Courts with respect to the employees from where only their current status could be determined. He would also place on record the appointment orders of the workers listed in the papers produced today and the termination orders, if any, to determine the length of service till the employer-employee relationship subsisted which may entitle them to salary for the period. Let the needful be done and an additional affidavit be filed explaining the entire position. He may prepare tables to avoid bulk. The additional affidavit should also contain a para.

explaining the nature of 18 properties and the total value at Collector's rate including the value that the Corporation transferred the aforesaid properties to the State Government. He would also indicate whether any stay orders are operating in any of the pending litigations involving the workers.”

The proceedings in the present case show that the present petition has been filed seeking its voluntary winding up without clearing all the debts and dues of the employees/ex-employees, and the case set up by the employees/ex-employees of the company is that number of properties were transferred by it to the State Government without consideration, hence, the present petition cannot be entertained.

Dismissed.

(Rajesh Bindal)
Judge

9.2.2015

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