

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11795 OF 2015

NRC Limited. .. Petitioner

Vs

The Board for Industrial &
Financial Reconstruction and Others. .. Respondents

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Shri Girish S. Godbole along with Shri Yahya Ghoghari, Levi Rubens,
Shri Rohit Dave and Ms. Aditi Bhatt i/b Vigil Juris for the Petitioner.

Shri Arshad Shaikh ib Shri Jayesh Desai for the Respondent No.2.

Ms. Jinal Gogri i/b Negandhi Shah & Himayatullah for the Respondent
No.3.

Shri B.R.Zaveri for the Respondent No.12.

Shri D.N. Mishra and Shri Anand Singh for the Respondent No.14.

Shri Nikhil Rajani i/b M/s. V. Deshpande & Co for the Respondent
No.15.

Ms. Sangeeta yadav i/b Shri Suresh Kumar for the Respondent No.16.

Ms. Meena Doshi for the Respondent No.18.

Shri Nirav Shah and Anuj Jaiswal i/b Little & Co for the Respondent
No.20.

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CORAM : A.S. OKA & C.V. BHADANG, JJ

DATED : 6TH JANUARY 2016

P.C.

1. The learned counsel appearing for the Petitioner on instructions seeks permission to withdraw this Petition with liberty to make an application to the Punjab National Bank (Operating Agency) for release of the sum of Rs.2.25 Crores as well as for making an application before the BIFR for seeking appropriate directions against the Punjab National Bank (Operating Agency) for release of the said amount.

2. As far as the prayer clause (b) is concerned, we make it clear that we are not granting any liberty to the Petitioner to challenge the impugned final assessment order dated 7th December 2013 in as much as the said order was challenged by the Petitioner by filing a Writ Petition being Writ Petition No.181 of 2014 in this Court. The said Writ Petition was rejected by this Court on the ground that the remedy of Appeal under Section 127 of the Electricity Act, 2003 is available. The order of this Court dated 21st September 2015 has been affirmed by the Apex Court by an order dated 16th November 2015 in Special Leave Petition No.31176 of 2015. Moreover, even according to the case of the Petitioner, a fresh Petition has been filed in this Court for challenging the constitutional validity of Section 127 of the Electricity Act, 2003 as well as the Rules and allied Government Notifications.

3. Therefore, we dispose of the Petition as withdrawn with liberty to the Petitioner to move an Application to the Punjab National Bank (Operating Agency) for release of Rs.2.25 Crores as well as a liberty of making an Application before the Board for Industrial & Financial Reconstruction (BIFR) for seeking necessary directions against the Operating Agency.

4. If an Application is made by the Petitioner before the Punjab National Bank (Operating Agency), the same shall be decided by the said Bank within a period of one month from the date of filing of the Application by the Petitioner.

5. All the contentions of the parties as regards the prayer to be made by the Petitioner to the Punjab National Bank (Operating Agency) as well as to the BIFR are expressly kept open.

(C.V. BHADANG, J)

(A.S. OKA, J)