

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1179 OF 2014

Wazir Financial Services Pvt. Ltd. Petitioner
vs
State of Maharashtra and anr. Respondents

ALONG WITH
WRIT PETITION No. 1288 OF 2014
WITH
CHSW/169/2016

Wazir Financial Services Pvt. Ltd. Petitioner
vs
State of Maharashtra and anr. Respondents

Mr. Siddharth Murara with Mr. Niraj Shah iby Law Chamber of Siddharth Murara for the petitioner in both Petitions and Chamber Summons.

Mr. Kedar Dighe, AGP for respondent in WP No.1179/14 and for Respondent No.1 in WP No.1288/14.

Ms. Nidhi Singh with Ms. Chaitrika Patki I/by Vidhi Partners for Respondent No.2 in WP No. 1288/14 and CHSW/169/16.

**CORAM: ANOOP V. MOHTA AND
A. S. GADKARI, JJ.**

DATE : November 17, 2016

ORDER:

In view of order passed on 16.11.2016 the matter is listed

today. The learned counsel appearing for the Petitioner has pointed out order dated 7 July 2014 passed in Company Petition No.330/2013 filed by the Petitioner, whereby the learned Single Judge has observed in para 2 as under :

“2 The Court has observed that in number of cases the Companies have started obtaining such orders under the Bombay Relief Undertakings (Special Provisions) Act, 1958 because of which the proceedings filed before this Court are required to be adjourned sine die. I am informed that in the present case the notification issued in favour of the Respondent Company declaring the same as a relief undertaking has been challenged by the Petitioner by way of Writ Petition No.1179 of 2014. Since the fate of number of matters pending before this Court may depend on the outcome of the said Writ Petition, the Petitioner shall move the appropriate Court and have the Writ Petition decided at the earliest.”

2 The above observation, in our view, in no way, is sufficient to overlook the admitted factual position as recorded in order dated 16.11.2016. The order dated 16.11.2016 reads thus:

“We are inclined to dispose of the present petition in view of the earlier order dated 23.7.2015 passed by this court itself. It was agreed by both the parties that the period of impugned notification dated 11.7.2013 expired on 10.7.2014. The submission is made that by the chamber summons the further similar notification is also challenged and that also expired on 14.9.2016. Therefore, the challenges so raised needs no further consideration. The petitioner is at liberty to initiate the appropriate proceedings, if permitted by law.

2. However, at the request of the petitioner's Advocate, S.O. to 17.11.2016 for final disposal.”

The fact of expiry of notification is not in dispute. The effect, therefore, is that there is no notification which is required to be tested for any purpose in this situation. As and when occasion comes and if case is made out, the Court will pass an appropriate order. This is also in the background that the learned counsel appearing for Respondent No.2 in Writ Petition No.1288/2014, on instructions, makes statement that the earlier notification has expired on 14.09.2016 and the Respondent has also applied for renewal of the said notification and the same is still pending. The pendency of such Application even otherwise itself is not sufficient reason to hear the challenge so raised unless fresh notification is declared by the Competent Authority. Therefore, by keeping all contentions open, we are inclined to dispose both these writ petitions, with liberty.

3 No costs.

4 In view of disposal of writ petition, chamber summons no. 169/2016 stands disposed of accordingly.

(A. S. GADKARI, J.)

(ANOOP V. MOHTA, J.)