**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**

**Date of decision:02.02.2016**

**1. CAPP No.17 of 2015 (O&M)**

The PNFC Ex-Karamchari Colony Welfare Society .... Appellant

Versus

M/s Punjab Alkalies & Chemicals Ltd. and another .... Respondents

**2. CAPP No.18 of 2015 (O&M)**

The PNFC Ex-Karamchari Colony Welfare Society .... Appellant

Versus

M/s Punjab National Fertilizers & Chemicals Ltd. and others ....Respondents

CORAM:**HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE**
**HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. P.K. Mutneja, Advocate for the appellant.

Mr. Arun Nehra and Mr. Sant Kashyap, Advocates for respondent No.1.

Mr. Saurabh Arora, Advocate for the official liquidator.

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**S.J. VAZIFDAR, ACTING CHIEF JUSTICE (ORAL)**

The impugned order does not affect the rights of any of the parties adversely. Respondents No.1 and 2 are M/s Punjab Alkalies & Chemicals Ltd. and M/s Punjab National Fertilizers & Chemicals Ltd. Respondent No.2 is the company in liquidation. Respondent No.2 was wound up by an order dated 27.7.2001 on the recommendation of BIFR. The members of the appellant- society are ex-employees of respondent No.2- company in liquidation who continued to reside in the premises of the company.

Respondent No.1 had filed company applications essentially to recover proportionate costs towards electricity and water consumed by the second respondent's employees in their service quarters. According to respondent No.1, the respondent- Companies were floated by PSIDC. Their lands adjoin each other. Common facilities, therefore, were put in place including electricity and water in the housing colony. The grievance of respondent No.1 is that it is foisted with the dues pertaining to the service quarters of the employees of respondent No.2.

It is not necessary to consider the reliefs sought by respondent No.1 in its company applications, namely, Company Application No.318 of 2009, 379 of 2009 and 285 of 2010. It is sufficient to consider the operative part of the impugned order, which reads as follows:-

> "After hearing learned counsel for the parties, the aforesaid applications are disposed of with the following directions:-
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> 1. The occupants of the residential quarters, allotted by the PNFCL, the company in liquidation, will hand over the vacant physical possession of the quarters to the official liquidator on or before 30.4.2015, which shall be taken with complete inventory prepared.
> 2. Regarding power and water consumed by the occupants of the residential quarters allotted to them by PNFCL, the company in liquidation, all the relevant facts shall be placed by the PACL and the occupants of the quarters with the Official Liquidator, who shall decide the same on the basis of the information available. The occupants of the residential quarters allotted by PNFCL, the company in liquidation, shall be at liberty to put up their view before the Official Liquidator regarding sharing of

cost of common facilities.

3. The amount found due from the workmen on account of power and water consumed by them shall be deductable from the amount found payable to the workmen by the Official Liquidator. Balance amount, if any, shall be payable by them.

4. The charges for the use and occupation of the quarters in possession of the ex-employees/workmen of PNFCL, the company in liquidation, shall also be determined by the Official Liquidator, for which PACL and the ex-employees/workmen of PNFCL, the company in liquidation may assist the Official Liquidator.

5. In case, vacant physical possession of the quarters in occupation of the ex-employees of PNFCL, the company in liquidation, is not handed over to the Official Liquidator on or before 30.4.2015, they shall be liable to pay penalty to be determined by the Official Liquidator.

The applications are disposed of, accordingly."

There is no appeal against direction No.(1). It may be mentioned, however, that the employees continue to occupy the quarters despite the same. It is also necessary to mention that the appellant had itself sought time to vacate the quarters and the learned Company Judge granted them time upto 30.4.2015. They continued to remain in possession without any application for extention. This Court had granted an interim stay against that order. Continuing the stay would not be warranted as no application for extension of time was made to the Company Judge. Further the time was granted on the request of the appellant. If the appellants intend making a proposal and seeking extension of time, they must do so before the Company Court in the first instance. Further still, there is no appeal against this part of the order.

Direction No.(2) does not affect any of the parties adversely. It merely directs the official liquidator to decide the power and water consumed by the occupants of the residents of quarters and for that purpose, has granted respondent No.1 and the appellant, liberty to place material before the official liquidator. Indeed, this would be necessary for the official liquidator to decide the issue. Ultimately, the issue would have to be decided. If any amounts are due and payable by the employees for power and electricity, the same must be recovered by the company in the winding up proceedings.

The third direction is only a consequential direction. In the event of the amount being found to be due and payable by any of the workmen, the same must be adjusted against their dues.

The fourth direction also merely requires the official liquidator to determine the charge for use and occupation of the quarters in possession of the ex-employees/ workman of respondent No.2. There is no determination of the liability or the quantum thereof. The contentions of the parties are kept open in that regard. The official liquidator must determine the same.

The fifth direction also merely requires the official liquidator to determine the penalty in the event of the workmen/ ex-employees not vacating their quarters by 30.4.2015. We would modify this order to the limited extent of directing the official liquidator to determine the amounts if payable, whether by way of penalty or even otherwise, such as for compensation for illegal user.

The interim order passed in this appeal shall continue upto including 29.2.2015 only as a matter of indulgence to enable the appellant to make an appropriate application to the Company Judge.

Both the appeals are accordingly disposed of.

A photostat copy of this order be placed on the file of connected case.

**( S.J. VAZIFDAR )**
**ACTING CHIEF JUSTICE**

**February 02, 2016** **( ARUN PALLI )**
**renu** **JUDGE**