

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1002 OF 2019

IN

WRIT PETITION NO.377 OF 2019

WITH

CIVIL APPLICATION NO.824 OF 2019

IN

WRIT PETITION NO.377 OF 2019

WITH

CIVIL APPLICATION NO.873 OF 2019

IN

WRIT PETITION NO.377 OF 2019

Goradia Special Steels Ltd. Applicant

In the matter between

Goradia Special Steels Ltd. Petitioner

Vs.

The State of Maharashtra & Others Respondents

WITH

WRIT PETITION [STAMP] NO.14761 OF 2019

Goradia Special Steels Ltd. Petitioner

Vs.

The State of Maharashtra & Others Respondents

Mr. Advait Sethna i/by Mr. Raju R. Thakker for the
Applicant/Petitioner.

Mr. B.V. Samant, AGP, for Respondent Nos.1 & 2.

Mr. Nirav Shah a/w Mr. Anuj Jaiswal i/by Little &
Co. for Respondent Nos.3 & 4.

CORAM: S.C. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.

DATE : JULY 31, 2019

P.C:

1. Today an affidavit has been filed by the State Government in Civil Writ Petition (Stamp) No.14761 of 2019 in which it is categorically stated as under:-

“3. I say that the Petitioner has not come before this Hon’ble Court with clean hands. I say that the Petitioner is not interested in paying the legitimate dues of the Respondent Nos.3 and 4. I say that the Petitioner is interested in filing frivolous litigation one after another with a view to keep the Respondents engaged in litigation. I say that, the earlier Petition being Writ Petition No.377 of 2019 was dismissed in view of the Order dated 25.01.2019 and the non-compliance thereof by the Petitioner. I say that, this Hon’ble Court had given sufficient time to the Petitioner to pay a sum of Rs.5 crore on or before 26.03.2019 to show its bona fide. I say that, since the Petitioner has failed to pay the said amount in given time the said Petition stood dismissed.

4. I say that on 30.06.2019, huge amount of Rs.42,30,77,304/- is due from the Petitioner paying. I say that, the said outstanding due comprise of Principal amount of Rs.6,19,26,300/- and Interest and Penalty Charges of Rs.34,93,06,444/- and the current bill of Rs.1,18,44,560/-. A copy of the Bill dated June, 2019 issued by the Respondent Nos.3 and 4 in respect of the connection of the Petitioner is hereto annexed and

marked as **Exhibit-1**. I say that, the aforesaid position shows that, the Petitioner is not interested in paying the outstanding electricity dues and is trying to avoid the same by filing litigations one after another. I say that, therefore, the Petitioner is not entitled to any relief from this Hon'ble Court either in law or in equity.

5. I say that the following factual position is required to be taken into account for understanding the conduct of the Petitioner:-

Dates	Events
29.03.2008	Government Resolution dated 29.03.2008 was issued. As per the said G.R., eligible industry was to pay the Principal amount of arrears of energy bills as on 31.03.2009
Copy of the G.R. dated 29.03.2008 is hereto annexed and marked as <u>Exhibit-2</u> .	
24.07.2008	Directorate of Industries issued eligibility letter dated 24.07.2008 for availing the benefit in respect of Amnesty Scheme. The eligible industry was to pay the principal amount of arrears of energy bills as on 31.03.2009.
Copy of the letter dated 24.07.2008 is hereto annexed and marked as <u>Exhibit-3</u> .	
29.07.2008	Letter was written by the Petitioner to Respondent No.3 for one time settlement of arrears as per the G.R. dated 29.03.2008.
Copy of Letter dated 29.07.2008 is hereto annexed and marked as <u>Exhibit-4</u> .	
30.05.2016	Letter was written by the Petitioner to State of Maharashtra thereby requesting for grant of relief as per G.R. dated 29.03.2008.
Copy of letter dated 30.05.2016 is hereto annexed and marked as <u>Exhibit-5</u> .	

15.02.2017	Meeting was held on 15.02.2017 under Chairmanship of Additional Chief Secretary to Hon'ble Chief Minister wherein it was decided that Rs.1 Crore against the principal amount of arrears to be paid immediately by the Petitioner and balance amount within one year (Amnesty benefit was allowed)
Copy of the minutes of meeting dated 15.02.2017 is hereto annexed and marked as <u>Exhibit-6.</u>	
04.04.2017	Letter was written by the State to Respondent No.3 to furnish information about reliefs and concessions under Special Amnesty Scheme already given by MSEDCL to industries.
Copy of the letter dated 04.04.2017 is hereto annexed and marked as <u>Exhibit-7.</u>	
07.06.2017	Letter by State to Respondent No.3 thereby reminding to furnish information regarding reliefs given to other industries under Amnesty Scheme of State/ MSEDCL
Copy of Letter dated 07.06.2017 is hereto annexed and marked as <u>Exhibit-8.</u>	
22.06.2017	Letter by State to MSEDCL thereby reminding to furnish information regarding reliefs given to other industry under Amnesty Schemes of State/MSEDCL and to implement the scheme for Petitioner.
Copy of letter dated 22.06.2017 is hereto annexed and marked as <u>Exhibit-9.</u>	
06.02.2018	Letter by State to Respondent No.3 thereby clarifying that interest amount and penalty will not be reimbursed by the State.
Copy of the letter dated 06.02.2018 is hereto annexed and marked as <u>Exhibit-10.</u>	
24.04.2018	Time given to the Petitioner expired.

	<i>Payment was not made by the Petitioner in time.</i>
<i>January 2019</i>	<i>Writ Petition No.377 of 2019 was filed by the Petitioner before Hon'ble Bombay High Court for seeking reliefs regarding Amnesty.</i>
<i>10.01.2019</i>	<i>Ad-interim protection was granted to the Petitioner by Hon'ble High Court.</i>
<i>Copy of the order dated 10.01.2019 passed by the Hon'ble High Court is hereto annexed and marked as <u>Exhibit-11</u>.</i>	
<i>25.01.2019</i>	<i>Ad-interim Order granted earlier was extended subject to the payment of Rs.5 Crores by the Petitioner to Respondent No.3 on or before 26.03.2019 and till then supply was not to be disconnected.</i>
<i>07.02.2019</i>	<i>Letter by State to MSEDCL giving time period of 60 days for payment of principal amount of arrears in one stroke, by the Petitioner.</i>
<i>22.03.2019</i>	<i>Letter by State to MSEDCL recording the matter was subjudice was not brought to the notice of Government by the Petitioner and in view of the Court order dated 25.01.2019 the Letter of Government of Maharashtra dated 07.02.2019 was withdrawn.</i>
<i>16.04.2019</i>	<i>The Hon'ble Court declined to extend the interim relief in favour of Petitioner.</i>
<i>29.03.2019 24.04.2019 25.04.2019 26.04.2019</i>	<i>Aggregate of Rs.5 Crores was paid by the Petitioner towards dues.</i>
<i>29.06.2019</i>	<i>Amount of Rs.83,41,744/- paid by Petitioner against the current bill of May 2019."</i>

2. The Government has, therefore, stated that the petitioner is not diligent in paying the dues. It has failed to show its *bona fides* and therefore the writ petition be dismissed.

3. When this position was brought to the notice of Mr. Advait Sethna, appearing for the petitioner, in the morning session as also post-recess and we were disinclined to grant any relief in our discretionary and equitable jurisdiction under Article 226 of the Constitution of India, Mr. Sethna prays for one week's time to respond to this affidavit as also to take instructions.

4. At the request of the counsel, we post these matters on **6-8-2019**. They shall be listed on the supplementary board.

(SANDEEP K. SHINDE, J.)

(S.C. DHARMADHIKARI, J.)