

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 28466 of 2022

Impex Ferro Tech Limited & Anr.
Vs.
Damodar Valley Corporation & Ors.

Mr. Sagar Bandyopadhyay,
Mr. Tapas Saha,
Mr. D. Deb

... for the petitioners

Mr. Deepak Agarwal,
Mr. Prasun Mukherjee

...for the DVC

Learned counsel appearing for the petitioners submits that despite the petitioners having applied for reduction of contract demand load on September 27, 2022, the same was not acceded to by the Damodar Valley Corporation (DVC). On the contrary, on October 01, 2022, the electricity supply of the petitioners was disconnected, thereby disrupting the business of the petitioners.

It is submitted that previously by an order of the Division Bench of this Court, certain installments had been granted, which were substantially paid by the petitioners. However, dues for some months having accumulated from August, 2022, the disconnection was effected on October 01, 2022.

In the meantime, after filing of the present writ petition, the DVC has invoked the previous bank guarantee and has liquidated the amount. As such, there are no previous dues at present from the end of the petitioners. However, since the DVC had agreed to the petitioners' offer of paying the outstanding dues by further ten monthly installments, furnishing further security amount by way of bank guarantee to the tune of Rs.9.5 crore, as demanded on November 18, 2022 by the DVC, is beyond the means of the petitioners and unjustified.

It is submitted that payment of the ten installments could not be initiated, as no restoration of the electricity connection has yet been given by the DVC. As such, the plinth of the prayer of learned counsel for the petitioners is that the DVC may consider the petitioner's case sympathetically and reduce the claim of bank guarantee amounting to Rs.9.5 crore as demanded by the DVC as further security.

Learned counsel appearing for the DVC argues that the petitioners had defaulted previously, for which the initial security deposit had to be encashed. As such, it cannot be said that the DVC was not sympathetic to the petitioners at the earlier stage. However, upon substantive outstanding dues having accrued, the DVC was compelled to disconnect the

electricity supply of the petitioners again. As such, since the previous security deposit was liquidated, there is no security deposit at present with the DVC to cover the risk of giving reconnection of electricity to the petitioners. Thus, it is submitted that the demand of fresh bank guarantee to the tune of Rs.9.5 crore by way of security deposit is justified.

In the circumstances of the case, it is clear that the petitioners' industry is in a precarious condition due to disconnection of electricity supply. However, since the petitioners have shown their bona fides in offering ten monthly installments, although there is no legal compulsion on the DVC to comply with the said request, it is expected that in order to facilitate proper recovery of the due amounts, DVC ought to consider sympathetically, if plausible, the request of the petitioners to reduce the security deposit demanded afresh by way of bank guarantee amounting to Rs.9.5 crore to a reasonable amount, which would be within the means of the petitioners.

Hence, W.P.A. No. 28466 of 2022 is disposed of by directing the DVC to consider the petitioners' prayer to reduce the bank guarantee demanded by the e-mail dated November 18, 2022 by the DVC as further security deposit to the tune of Rs.9.5 crore, a printout of which is annexed at page 116 (Annexure P-16) of the present writ petition.

The DVC shall undertake such consideration at the earliest and intimate the result to the petitioners upon giving the petitioners or their legal representatives an opportunity of hearing on such consideration.

Such exercise, it is expected, shall be completed within three weeks from date.

Subject to the outcome of such consideration, the DVC shall consider restoration of electricity supply of the petitioners upon agreed terms between the parties, if any.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)