

Meena

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 117 of 2018

1. M/s Twenty First Century Wire Rods Ltd.,
Represented by Shri Pawan Sharma, Presently
working as “General Manager” in the
Petitioner Company and Authorised
Signatory, Plot No. D-9/1, Madcaim Industrial
Estate, Madcaim, Ponda Goa.
 2. Shri. Darshan Churiwala, Shareholder and
Director of the Petitioner Company, having
office at Plot no. D-9/1, Madcaim Industrial
Estate, Madcaim, Ponda – Goa India.
- ... PETITIONERS

Versus

1. The State of Goa, Through its Chief Secretary,
Secretariat, Porvorim, Bardez, Goa.
 2. The Chief Electrical Engineer, Electricity
Department, Government of Goa, having
office at Vidhyut Bhavan, Panaji, Goa.
 3. The Executive Engineer, Division III,
Electricity Department, Government of Goa,
Curti, Ponda, Goa.
 4. The Superintending Engineer (Commercial),
Electricity Department, Government of Goa,
having office at Chief Engineer, Electricity
Department, Government of Goa.
- ... RESPONDENTS

Mr Hanumant D. Naik, Advocate for the Petitioners.

Ms Sapna Mordekar, Additional Government Advocate for
Respondents- State.

**CORAM: PRAKASH D. NAIK &
BHARAT P. DESHPANDE,JJ.**

DATE: 10th NOVEMBER,2023

ORAL JUDGMENT:(Per Prakash D. Naik,J)

1. The Petitioner has sought the following reliefs in this petition:

A. That this Hon'ble Court be pleased to issue a Writ of Certiorari or Writ in the nature of Certiorari or appropriate Writ, Order or directions calling for the records from the Respondents in respect of the Representations made by the Petitioners to waive of DPC; and upon examining the legality, validity and propriety of the impugned decision Letter dated 12/09/2017, be pleased to quash and set aside the impugned Letter dated 12/09/2017.

B. That this Hon'ble Court be pleased to issue a Writ of Mandamus or a Writ in the nature of a Mandamus or any other appropriate Writ, Order or Direction, commanding the Respondents to forbear themselves from practicing discrimination against the Petitioners and to forthwith consider and grant the Application of the Petitioner No. 1 on similar grounds as have been followed in the case of M/s Karthik Inductions Ltd., and to accordingly review the charges payable by the Petitioner No. 1.

2. The Petitioner has filed an affidavit dated 01/11/2022 stating that the Petitioner's Company has filed a petition under Section 10 of the Insolvency and Bankruptcy Code before National Company Law Tribunal, New Delhi, with a prayer to initiate Insolvency Resolution Process against the Petitioner's Company and for issuance of Directors activating Moratorium under Section 14 of the Code. The NCLT vide judgment dated 12/09/2018 admitted the petition and appointed an Interim Resolution Professional in terms of Section 13(2) of the Code and directed the Interim Resolution Professional to immediately make public announcement with regards to the admission of the petition. The

NCLT has declared the Moratorium in terms of Section 14 of the Code and has imposed prohibitions such as:

“a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority.

b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right of beneficial interest therein.

c) Any action to foreclose, recover or enforce any security interest creating by the corporate debtor in respect of his property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

d) The recover of any property by an owner of lessor where the search property is occupied by or in the possession of the corporate debtor.”

3. It is submitted that vide order dated 12/09/2018, the Tribunal has directed the Interim Resolution Professional to perform all functions in accordance with Sections 15 to 21 of the Code. In view of the order passed by the NCLT, if any party is having any claim against the Petitioner's company such claim is required to be raised before the Resolution Professional as per the provisions of Code. Learned Counsel for the Petitioner submits that in view of the pendency of proceeding, before NCLT and directions issued therein this petition could be disposed of, by permitting the petitioners to urge this reliefs/claim sought in this petition, before NCLT.

4. In view of the above this, petition is disposed of with liberty to the Petitioner to urge the prayers sought in this petition before the NCLT.

5. All the claim and contentions of both sides are kept open.
6. Rule is discharged in the above terms.

BHARAT P. DESHPANDE,J.

PRAKASH D. NAIK, J.

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VISHAL
BHOIR

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