

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.436 of 2020

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M/s Eclat Industries Ltd. a Public Limited Company, incorporated under the provisions of the Companies Act, 1956 having its Registered Office at 30 and 31, Industrial Area, Patliputra Colony, Patna-800013 through Sri Bashisth Narayan Choubey its Managing Director

... .. Petitioner/s

Versus

1. The State of Bihar Department of Industries, through its Principal Secretary, Patna
2. The Director of Industries cum Chairman of the State Level Apex Committee Industries Department, Govt. of Bihar, Vikash Bhawan, Bailey Road, Patna
3. International Assets Reconstruction Co. Pvt. Ltd. (IARC) A/508, 5th Floor, 215, Atrium, Kanakia Spaces, Andheri Kurla Road, Andheri (East), Mumbai-400093
4. Dy. General Manager Canara bank, SME Sulabh, Circle Office, 3rd Floor, Luv Kush Towers, Patna-800001

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Arbind Kumar Jha, Adv.
For Canara Bank	:	Mr. Rajan Ghoshrahe, Adv.
For the Respondent/s	:	Mr. Kinkar Kumar (Sc9)

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

4 30-01-2024 Heard the learned counsel for the parties.

The present writ petition has been filed for the
following reliefs:-

“(a) For a direction to respondent no. 1, 2 & 3 to give effect to the order dt. 21.12.2017 passed by the Apex Body headed by Director of Industries to implement the rehabilitation of the petitioner's unit in terms of Industrial Incentive Policy 2011 framed by State of Bihar for revival of Sick industrial undertaking falling in small, medium and micro sector.



(b) To quash the letter dt. 10.10.2019 passed by the respondent no 4 Canara Bank with a further direction to implement the order dt. 21.12.2017 and 31.08.2018 passed by the Apex Committee and the Appellate Authority by which the direction was issued to reexamine the viability of the unit and take a reasoned approach in revival of the unit.

(c) For a direction to State Government to pay Rs. 1.67 cr. from revolving fund to repay International Assets Reconstruction Company (hereinafter referred to as IARC) as per the decision of State Level Apex Committee.

(d) For any other further order/ orders and/or direction/ directions for which petitioner may be found entitled.”

3. Learned counsel for the petitioner has stated that pursuant to the direction issued by this Hon'ble Court in LPA No. 1887 of 2016 with analogous cases dated 23.11.2017, the authority has passed the order (Annexure-9). The said order has not been challenged by any person except the respondent No. 4 i.e. Canara Bank. Thereafter, the authority has rejected the case of the petitioner for rehabilitation vide order dated (Annexure-12). Learned counsel has stated that the rejection of the petitioner's application for rehabilitation by concerned officer is bereft of reasons and is contrary to the principles of natural justice and equity and law laid down by the Hon'ble Supreme Court and as well as this Hon'ble Court in a catena of cases.



Learned counsel has stated that absolutely no reasons have been given by the Bank authorities for rejecting the claim of the petitioner for rehabilitation of the subject unit. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order (Annexure-12) and direct the authorities to pass afresh order giving reasons.

4. *Per contra*, learned counsel appearing on behalf of the respondent-Bank has stated that in the appeal filed by the Canara Bank in Appeal No. 01 of 2018, the authorities have taken several grounds and the authorities duly taking into account the grounds raised by the respondent-Bank has disposed off the appeal directing the Bank to take afresh look. That the Bank after duly taking note of the fact that much time has lapsed has rejected the claim of the petitioner.

5. This Court as well as the Hon'ble Apex Court, on number of occasions, have held that any authority/Court/quasi judicial authority have to necessarily give reasoning in the order passed by them. Unless reasons are given in the order, neither the party nor the superior forum or Courts before whom the order is challenged will be in a position to appreciate as to what has weighed with the said authority either for dismissing or allowing the application of the petitioner. Though the quasi



judicial or administrative authority are not obligated to give a lengthy or elaborate reasoning as in the case of Judicial order, yet they are expected to give a reasoned order which should be precise, concisely setting out the reason for allowing or dismissing the contention/application as the case may be.

In Assistant Commissioner, Commercial Tax Department, Works Contract and Leasing, Kota vs. Shukla and Brothers, reported in **(2010) 4 SCC, 785**, the Hon'ble Supreme Court has held as under:

“..... while exercising the power of judicial review on administrative action and more particularly the judgment of courts in appeal before the higher court, providing of reasons can never be dispensed with. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard Secondly, the authority concerned should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

..... A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer Reasons are the soul of orders Non-recording of reasons could lead to dual infirmities; Firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial



pronouncements. The orders of the court must reflect what weighed with the court in granting or declining the relief claimed by the applicant."

6. Having regard to the above said proposition of law, the impugned order does not give any reason for rejecting the claim of the petitioner for rehabilitation except stating that the claim has been declined by the competent authority no other reasons are given.

7. Having regard to the same, the impugned order dated 10.10.2019 (Annexure-12) is set aside and the matter remanded back to the authority concerned for considering the matter afresh and pass a reasoned order. It is needless to mention that before passing any order, the petitioner shall be given an opportunity of hearing. The authority concerned shall endeavor to dispose off the matter as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. Any order passed shall be communicated to the parties.

8. With the above direction, the present writ petition stands disposed off.

(A. Abhishek Reddy, J)

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