

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION 317 OF 2007

Sharmik Mahasangh, Mumbai ...Petitioner
Versus
Board for Industrial & Financial
Reconstruction (BIFR), New Delhi And Ors. ...Respondents

WITH
INTERIM APPLICATION NO. 160 OF 2024
IN
WRIT PETITION 317 OF 2007

GKW Ltd., West BengalApplicant
In the matter between:
Sharmik Mahasangh, Mumbai ...Petitioner
Versus
Board for Industrial & Financial
Reconstruction (BIFR), New Delhi And Ors. ...Respondents

WITH
WRIT PETITION NO. 4057 OF 2024

Sharmik Mahasangh, Mumbai ...Petitioner
Versus
State Of Maharashtra And Ors. ...Respondents

Sr. Adv. Arshad Shaikh a/w Adv. Namrata Agashe, Adv. Pranil Lahigade i/b. Adv. Devansh Malhotra for the Petitioner in WP/317/2007 and WP/4057/2024.

Sr. Adv. Dinyar Madon, Sr. Adv. Ashish Kamat a/w Kingshuk Banerjee, Mr. Abhiraj Gandhi, Shayan Dasgupta, Kanika Sharma, i/b. Khaitan and Co. for Applicant in IA/160/2024 and for Respondent No. 2 in WP/317/2007.

Smt. P. H. Kantharia G.P a/w Smt. Jaymala Ostwal, Addl. G.P. for Respondent Nos. 3 & 6 in WP/4057/2024 and for Respondent Nos. 1 to 6 in IA/160/2024.

**CORAM : RAVINDRA V. GHUGE &
M.M. SATHAYE, JJ.**

DATE : 24th OCTOBER, 2024

P.C.:

1. At the outset, learned Senior Advocate Shri Shaikh has tendered a list of documents (119 pages) dated 23/10/2024 along with original affidavits of the concerned workmen / LR's and the Union. The same is collectively marked as "X-2" for identification. We clarify that the affidavits from page Nos.10 till 119, are in original form.

2. The learned Senior Advocates along with their briefing Advocates have tendered the draft minutes of order dated 24/10/2024 (7 pages). The said copy, which is signed and initialed on each page by the learned Advocates on record, is marked as "Y" for identification.

3. The draft minutes of order reads as under:-

1. *The captioned Interim Application No. 160 of*

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2024 is filed by Original Respondent No.2 inter alia for the purpose of vacating a portion of the order dated 08/02/2007 passed in Writ Petition No. 317 of 2007 and for formally relieving the Applicant from a statement made to this Hon'ble Court which, in its current form, appears to restrict the Applicant's ability to create any third-party interest in respect of its property at Bhandup.

- 2. While there are multiple litigations pending including the present Writ Petition, the sum and substance of the parties' dispute relates to the monetary claims of 31 workmen.*
- 3. On 18/10/2024, i.e. the last date of hearing, Ld. Senior Counsel appearing for both parties, on instructions, stated that their respective clients are keen on resolving the matter and are willing to leave it to the Court to determine and arrive at an appropriate figure, on the payment of which, the disputes concerning the following Writ Petitions, will stand disposed -*
 - a. Writ Petition No. 1793 of 2004,*
 - b. Writ Petition No. 317 of 2007,*
 - c. Writ Petition No. 2281 of 2008,*
 - d. Writ Petition No. 693 of 2015,*
 - e. Writ Petition No. 1419 of 2016,*
 - f. Writ Petition No. 4057 of 2024.*
- 4. Ld. Senior Advocate for the Petitioner stated that his client would procure Affidavits from the 31 workmen. Ld. Senior Advocate mentioned that of the 31 workmen, 7 have expired. He agreed to procure Affidavits from suitable legal representatives of such deceased workmen.*
- 5. Today, Ld. Senior Advocate for the Petitioner has tendered 32 Affidavits in total, out of which Affidavits are tendered for 31 workmen and legal*

representatives in case of deceased workmen, as the case may be, and one Affidavit of Petitioner Union.

6. *All these Affidavits are taken on record and treated as an undertaking given to this Hon'ble Court.*
7. *In view of the same, the following order is passed with the consent of parties:*
 - I. *Applicant (Orig. Resp. No. 2) Company will pay an amount of Rs. 8,00,00,000/- (Rupees Eight Crores Only) to the Petitioner Union, after deducting therefrom an amount of INR 88,00,000 (Rupees Eighty Eight Lakhs Only) deposited earlier by GKW Ltd i.e. a net amount of INR 7,12,00,000 (Rupees Seven Crores Twelve Lakhs Only) within a period of 1 week from today, towards full and final settlement of all dues of 31 workmen;*
 - II. *Upon payment of this amount, the captioned Writ Petition No. 317 of 2007 and Writ Petition No. 4057 of 2024 shall stand disposed off in terms of this order;*
 - III. *Similarly, Writ Petition No. 2281 of 2008 (which was directed to be heard along with the captioned Writ Petition No. 317 of 2007) and Writ Petition No. 693 of 2015 (filed by the Petitioner challenging an order of the Industrial Court) shall also stand disposed off in terms of this order;*
 - IV. *Writ Petition No. 1793 of 2004 was filed by the Petitioner with respect to payment of wages of the workmen during the period of 1998 to 2001. While the same was disposed of vide order dated 17/01/2024 for want of*

prosecution, the Petitioner thereafter filed an application for restoration (Interim Application (L) No. 5234 of 2024). The same shall also stand disposed off in terms of this order;

- V. Writ Petition No. 1419 of 2016 filed by GKW Ltd. (i.e. Respondent No.2 in captioned Writ Petition No. 317 of 2007) challenging the order dated 23/03/2016 of the Industrial Court in Complaint (ULP) No. 62 of 2006 shall be disposed off and order dated 23/03/2016 shall stand merged into the present Order and will not be required to be complied with. The Bank Guarantee (BG No. FINBG201600003, renewed till 06/09/2025) for INR 2,00,00,000 furnished by GKW Ltd and deposited with the Hon'ble Court in terms of order dated 10/08/2016 (and extended from time to time) shall be returned to it;*
- VI. The Petitioner to withdraw Complaint (ULP) No. 13 of 2011 pending before the Hon'ble Labour Court, Thane within 14 Court working days of this Order.*
- VII. That on payments made by the Petitioner Union to the 31 workmen concerned herein, the workmen would be entitled to spread over benefits pursuant to Section 89 of the Income Tax Act, 1961. The period spread over, being payment of last salary to the dates of individual superannuation's of the respective employees.*
- VIII. That the payment of arrears which include levy of the Petitioner Union for having worked towards the monetary resolution at the rate of 10% of the dues payable to each of the concerned workmen to be deducted by the*

Union before making payments to the said individual workmen.

IX. That the liability towards payment of taxes, if any, would be of the individual recipient workmen and not of the Company.

X. That on payments hereunder, the concerned workmen and/or their legal heirs / representatives will have no further claims of any nature whatsoever, against the Company. However, the disputes concerning 4 (four) workmen (i.e., S.A. Tandel, S.M. Prabhu, Manuel S. D'Souza and John Solomon Jacob) in respect of GKW Labour quarters is not covered by this Order. The Company shall sign and/or upload the necessary forms as may be required in relation to any family pension matters concerning the workmen whose pensions are yet to be cleared by the Government Authorities.

8. Parties to act on an ordinary copy of this order.

9. No order as to costs.

10. The Writ Petitions are disposed of in the above terms.”

4. In view of the above, **both these Writ Petitions and Interim Application stand disposed off** in terms of the above minutes of order.

5. Pending matters mentioned in the above minutes, sought to be disposed off, are pending before the learned Single

Judge of this Court and the Labour Court, Thane. Parties have agreed to move the learned Single Judge and the said Labour Court for disposal of the pending matters in terms of this order.

(M.M. SATHAYE, J.) (RAVINDRA V. GHUGE, J.)