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ORDER SHEET

WPO No.206 of 2025
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

TECH NIRMAN ISPAT PRIVATE LIMITED & ANR.
VS.
DIRECTORATE OF MICRO, SMALL
AND MEDIUM ENTERPRISES & ORS.

BEFORE:

The Hon'ble JUSTICE AMRITA SINHA

Date : 4th April, 2025.

Appearance:

Mr. Jishnu Saha, Sr. Adv.
Ms. Swapna Choubey, Adv.
Mr. Rishav Banerjee, Adv.
Ms. Anshumala Bansal, Adv.
Mr. Richik Chowdhury, Adv.
Mr. Bhargav Verma, Adv.
Mr. Aditya Chakraborty, Adv.
...for the Petitioners.

Mr. Anand Farmania, Adv.
Ms. Indumouli Banerjee, Adv.
...for the State.

Mr. Joydip Kar, Sr. Adv.
Mr. Shaunak Mitra, Adv.
Mr. Siddhartha Sharma, Adv.
Mr. Rishav Dutt, Adv.
Mr. Arjun Asthana, Adv.
Mr. Pathik Chowdhury, Adv.
...for the Respondent no.2.

Mr. Ratnanko Banerji, Sr. Adv.
Mr. Rajarshi Banerjee, Adv.
Mr. Soham Sen, Adv.
Ms. Suranjana Chatterjee, Adv.
...for the Respondent no.3.

1. The petitioner is an unsuccessful resolution applicant who challenges the status of the respondent no.2 as a Micro Small and Medium Enterprise

(MSME). A complaint was lodged before the Director of MSME in February, 2025 and the same is allegedly to be kept pending.

2. Learned advocate representing the State respondents has placed before this Court an inspection report in respect of the respondent no.2 signed by the General Manager, District Industries Centre, Paschim Burdwan on 3rd April, 2025 disclosing that on inspection it was revealed that the unit has been closed for some years. All the machineries have been dismantled and no employee/worker was available in the unit premises. The report of the General Manager, District Industries Centre, Paschim Burdwan dated 3rd April, 2025 is retained with the records.
3. From the documents annexed to the writ petition it appears that the respondent no.2 was granted MSME registration in July, 2018. The said registration was under the Udyog Aadhar. After publication of the notification of the Ministry of Micro, Small and Medium Enterprises on 26th June, 2020, the respondent no. 2 Company was registered under the Udyam registration on 25th August, 2023. In the meantime, the respondent no.2 was admitted into CIRP under the Insolvency and Bankruptcy Code, 2016 on 22nd August, 2023.
4. The petitioner contends that the respondent no.2 cannot enjoy the status of MSME as the unit of the respondent no.2 was not operational on the date the MSME certificate was registered under Udyam.
5. Prayer has been made for cancellation of the MSME registration of the respondent no. 2.

6. The respondent no. 3 has been declared as the Successful Resolution Applicant of the respondent no. 2 by the Committee of Creditors of the respondent no. 2 in September, 2024. The Resolution Plan submitted by the Resolution Professional representing the respondent no. 2 is pending approval before the National Company Law Tribunal, Kolkata.
7. The respondent nos. 2 and 3 raises an objection with regard to the *locus standi* of the petitioner in challenging the MSME status of the petitioner. Decisions of the Hon'ble Supreme Court have been relied upon by the said respondents in support of the submission that an Unsuccessful Resolution Applicant cannot challenge the Resolution Plan submitted by the Resolution Applicant. There are proceedings in between the parties pending before the National Company Law Tribunal.
8. The instant writ petition only revolves around the MSME status of the respondent no.2.
9. The inspection report of the General Manager, District Industries Centre dated 3rd April, 2025 appears to have been forwarded to the Assistant Director-in-Charge, MSME DFO, Durgapur for necessary information.
10. Clause 9(4) of the notification of the Ministry of Micro, Small and Medium Enterprises dated 26th June, 2020 mentions that in case of any discrepancy or complaint, the General Manager of the District Industries Centre of the concerned District shall undertake an enquiry for verification of the details of Udyam Registration submitted by the enterprise and thereafter forward the matter with necessary remarks to the Director or Commissioner or Industries Secretary concerned of the State Government, who, after issuing

a notice to the enterprise and after giving an opportunity to present its case and based on the findings, may amend the details or recommend to the Ministry of Micro, Small and Medium Enterprises, Government of India, for cancellation of the Udyam Registration certificate.

11. The aforesaid provision mentions about the complaint before the General Manager. In the instant case, the complaint lodged by the petitioner has been acted upon and a spot inspection has already been conducted. The General Manager, District Industries Centre is directed to follow up the matter strictly in accordance with law and dispose of the complaint at the earliest. The final conclusion shall be made known to all the necessary parties.
12. As the provision mentioned hereinabove requires grant of opportunity of hearing to the enterprise, steps shall be taken strictly in accordance with the same.
13. The writ petition stands disposed of.
14. Affidavit of service filed in Court today is taken on record.
15. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)