

19.07.2016  
(07)  
DC.

**W.P. 9543 (W) of 2016**

Howrah Mills Company Limited  
Vs.  
The Employees State Insurance Corporation & Ors.

Mr. Utpal Majumder  
Mr. Aniruddha Sinha... for petitioner

Mr. Mihir Kundu.. for respondents

The writ petitioner is one of the few jute mills in this State, which are operational. According to their letter dated 10<sup>th</sup> March, 2016, 4000 workmen are employed.

The Mill faces imminent closure on account of a notice dated 11<sup>th</sup> April, 2016 of the Employees State Insurance Corporation assessing the writ petitioner's dues at Rs. 5,05,47,530/-.

Earlier on 29<sup>th</sup> September, 2015, the said Corporation had worked out the monthly instalments to be payable by the writ petitioner. It was Rs. 14,69,443.09, rounded off to Rs. 14,69,500/- commencing from 15<sup>th</sup> October, 2015 and payable by the 15<sup>th</sup> of each month (See annexure P-2 at page 22) of the petition. A bank guarantee was also furnished by the writ petitioner, securing one instalment.

They were able to pay two instalments. The bank guarantee was encashed by the said Corporation.

Mr. Majumder appearing for the petitioner makes a prayer before this Court to allow his client to pay off their outstanding by instalments which may be fixed by the Court.

Mr. Kundu opposing this application says that no such facility should be granted to the writ petitioner and the notice dated 11<sup>th</sup> April, 2016 should be strictly enforced.

This Court takes into consideration the following factors:

The writ petitioner has evinced an intention not to deprive the Employees State Insurance Corporation. But at the moment it is unable to pay the whole demand. It has made payment of three instalments.

The livelihood of the 4000 employees are involved. If the Mill is shut down, they will be thrown into complete unemployment, which in my opinion will put the workmen in a worse position than they are now.

The writ petitioner is one of the major jute mills still functioning in this State and making production. This Court leans in favour of saving an industry than to see its destruction.

In that view of the matter , I make the following directions :

The writ petitioner will pay the current instalment which has fallen due in July 2016 immediately by 31<sup>st</sup> July, 2016 and keep on paying the current instalments.

The arrear E.S.I. dues are a little over Rs. One crore, as submitted.

As far as the arrear is concerned, the writ petitioner will immediately pay Rs. 30 lacs along with the current instalment for July 2016 by 31<sup>st</sup> July, 2016.

Thereafter they will continue to pay Rs. 25 lacs per month on account of arrear by the end of each following month till the arrear is liquidated.

On the prayer of Mr. Majumder, since the writ petitioner will have to pay Rs. 45 lacs by 31<sup>st</sup> July, 2016, the next instalment payments in terms of this order will commence from September 2016.

Unconditional stay of the notice dated 11<sup>th</sup> April, 2016 till 31<sup>st</sup> July, 2016.

If the instalments are paid punctually, no effect will be given to the notice dated 11<sup>th</sup> April, 2016.

In default of payment of any two instalments, the respondent-Corporation may take steps in accordance with the notice dated 11<sup>th</sup> April, 2016.

The interest claimed by the Authority will be considered by this Court after the payment position is reviewed by this Court after filing of affidavits.

This writ application is formally admitted.

Affidavit-in-opposition by 12<sup>th</sup> August, 2016.

List this application on 24<sup>th</sup> August, 2016.

Affidavit-in-reply may be filed in the meantime.

**(I.P.Mukerji,J.)**