

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/COMPANY APPLICATION NO. 107 of 2013****In R/COMPANY PETITION NO. 157 of 1996****With****R/OFFICIAL LIQUIDATOR REPORT NO. 5 of 2019****In****COMPANY PETITION NO. 157 of 1995****With****R/COMPANY APPLICATION NO. 22 of 2014****In****COMPANY PETITION NO. 157 of 1995****With****R/COMPANY APPLICATION NO. 264 of 2016****In****COMPANY PETITION NO. 157 of 1995****With****R/COMPANY APPLICATION NO. 276 of 2016****In****COMPANY PETITION NO. 157 of 1995****With****R/COMPANY APPLICATION NO. 332 of 2016****In****COMPANY PETITION NO. 157 of 1995****With****R/COMPANY APPLICATION NO. 360 of 2016****In****COMPANY PETITION NO. 157 of 1995****With****R/COMPANY APPLICATION NO. 553 of 2016****In****COMPANY PETITION NO. 157 of 1995****With****R/COMPANY APPLICATION NO. 4 of 2017****In****COMPANY PETITION NO. 157 of 1995**

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TEXTILE LABOUR ASSOCIATION**Versus****OFFICIAL LIQUIDATOR OF AHMEDABAD MANUFACTURING CALICO & 11****other(s)**

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Appearance:

MR DS VASAVADA(973) for the Applicant(s) No. 1

M/S TRIVEDI AND GUPTA(949) for the Respondent(s) No. 11

MR BJ TRIVEDI(921) for the Respondent(s) No. 12

MR JT TRIVEDI(931) for the Respondent(s) No. 12

MS JIGNASA B TRIVEDI(3090) for the Respondent(s) No. 12

MS KJ BRAHMBHATT(202) for the Respondent(s) No. 1

NOTICE SERVED BY DS(5) for the Respondent(s) No. 4,5,6,9

NOTICE SERVED(4) for the Respondent(s) No. 10,2,3,4,5,6,7,8,9

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CORAM: HONOURABLE MS JUSTICE SONIA GOKANI**Date : 29/07/2019****ORAL ORDER**

1. By way of an additional report the following prayers are made in

Official Liquidator's Report No. 05 of 2019:-

“(A) This Hon'ble Court may be pleased to permit the Official Liquidator to avail service of empaneled Chartered Accountants for verification of claim forms submitted by workmen of the company in liquidation as the Official Liquidator make payment to the concerned workmen on the basis of verification report submitted by the Chartered Accountants, and as per list provided by the concerned worker's union as well claim forms submitted by concerned workers / worker's union.

(B) This Hon'ble Court may be pleased to direct Textile Labour Association, Calico Fibre Employees Association and Maharashtra General Kamgar Unions authorized representatives of workmen of Ahmedabad, Vadodara and Mumbai unit to prepar Master Payment Register as per usual practice and supply duly attested copy of the same to the Office of the Official Liquidator so as to enable the Official Liquidator to process the dully filled up claim forms with the help of Chartered Accountants and after verification same may be forwarded to the Bank to make the payment

in the account of concerned workmen through RTGS/NEFT mode only.

(C) This Hon'ble Court may be pleased to grant protection to the Official Liquidator and his officers and officials under Section 635(A) of the Companies Act, 1956.

(D) This Hon'ble Court may be pleased to direct the Textile Labour Association, Calico Fibre Employees Association and Maharashtra General Kamgar to declare the name of the office bearers who may have attested the claim disbursement forms on behalf of the union and also permit the Official Liquidator not to entertain any other persons except office bearers whose name have been declared by the said unions, for resolving the issues which may arise during the disbursement.

(E) This Hon'ble Court may be pleased to direct the legal heirs of concerned claimant workmen to furnish relevant documents and indemnity bond as well as undertaking in original to the effect that in future any kind of dispute arises or claim is raised they will be responsible for the same and they will refund amount to the Official Liquidator without any demur.

(F) This Hon'ble Court may be pleased to permit the Official Liquidator to accept the claim forms of individual workmen who are not associated with any union subject to condition that they will follow the due procedure as laid in present report.

(G) This Hon'ble Court may be pleased to permit the Official Liquidator to make payment of Rs.9,70,931/- from the account of the company in liquidation maintained by the office of the Official Liquidator M/s. Global Network Advertising., Advertising Agency being the advertisement expenses incidental to sale proceedings, as per advertisement agency's bill dated 10.04.2019 at Annexure-C.

(H) This report is submitted in compliance of order dated 10.07.2019 and for such other and further orders and directions as may be considered appropriate by this Hon'ble Court may also be passed.”

2. This Court has heard learned advocates, Ms. Brahmbhatt appearing for the Official Liquidator, Mr. Vasavda for Textile Labour Association, Mr. Suresh Patel for respondent no.16, Ms. Parini Shah for respondent no.7 and Mr. Rajesh Mankad for respondent no.17.

3. Learned advocate Ms. Brahmbhatt has urged this Court that although the details had been verified of all the labourers earlier, some of them might now be represented by their heirs. Verification, therefore is necessary and hence, Official Liquidator be permitted to avail the services of empanelled Chartered Accountant for verification of the claims. She also requires various associations to prepare the Master Payment Register as per the usual practice and supply duly attested copy of the same to the Official Liquidator. She further requires that the names of the office bearers be furnished who may have attested the claim disbursement forms on behalf of the union and also urged that the Official Liquidator may not entertain any other persons except office bearers whose names are reflected.

4. Having thus heard both the sides, the Court notices that earlier

twice the claims of employees of the workmen had been considered and amount has been disbursed in their respective accounts however, with the afflux of time there may be a possibility that some of them are represented by their legal representatives/ heirs, therefore the request of the Official Liquidator for the claim being examined by the Chartered Accountant shall need to be acceded to.

5. Let the verification be done of the claim forms submitted by the workmen of the company-in-liquidation as directed by the Co-ordinate Bench in Company Application No.365 of 2012. The relevant paragraph of the same reads thus:-

“7.1 In disbursement and payment of the amount to the workers of different Units as directed above, following procedure shall be followed and following conditions shall be complied with by the Official Liquidator.

(i) The official liquidator shall supply photocopy of claim form to the workers' Union of the company in liquidation immediately and in any case within a period of one week from the date of this order;

(ii) It is directed that each worker of the company in liquidation who have raised the claim in terms of this order, shall have to affix his/her passport size photograph on the claim form duly attested by the bank of the concerned worker, duly verified by the workers' Union. The concerned Union shall verify the details of its respective member workers and identify them. In case, the worker does not belong to any Union, the verification should be done by any Gazetted Officer and form should be accompanied by an affidavit/undertaking;

(iii) It will be open for the official liquidator to open dividend account for making the aforesaid payment and prematurely encash the fixed deposits to the extent required to make payment/ disbursement directed in this order;

(iv) The official liquidator is further directed to make the aforesaid payment to the accounts of the concerned workers through RTGS/NEFT mode only;

(v) Each claimant shall open account in a nationalized bank and shall also specify in the claim form that KYC Norms have been complied with by claimant;

(vi) In a case where claimant has died and his/her legal heir/s is/are has been claiming the amount, in such cases, legal heir/s of the claimant has/have to furnish relevant documents and indemnity bond, and an undertaking in original to the effect also that if in future any kind of dispute arises or any claim is raised, they will be responsible for the same;

(vii) The official liquidator shall avail the services of Chartered Accountants for verification of claim forms submitted by the workers for forwarding them to the bank for the purpose of making payment to their concerned accounts through RTGS/NEFT mode;

(viii) The official liquidator shall make the payment to the individual worker upon verification report given by the Chartered Accountant and on the basis of the particulars submitted by the worker's Union and after identification of each worker by the workers' Union."

6. The Textile Labour Association and Maharashtra General Kamgar Union have ensured to declare the names of their office bearers who shall

attest the claim disbursement forms on behalf of their respective unions or any employee to whom the disbursement is to be made and verification be taken place or the process be done by anyone who is authorized to carry out such task. Let the same be done within two weeks.

7. It is also further being directed that except those who have been named as office bearers in Textile Labour Association and Maharashtra General Kamgar Union or any of the authorized person/ representative of such office bearers, no other person shall be permitted to participate in this process.

8. Over and above those who are represented by the association or the union, the individual workmen also shall be governed by the directions to be followed for disbursement of the amount.

9. Since two weeks' time is likely to be taken for disclosing the details of the office bearers, Official Liquidator's office is given time of four weeks for completing the task.

10. The payment as requested for of M/s. Global Network Advertising is permitted.

11. The protection under Section 635A of the Companies Act, 1956 is granted to the official liquidator, his officers and staff members of the

office of the official liquidator as regards the disbursement.

12. The official liquidator shall file compliance report in respect of above payment/disbursement and all the above directions with regard to compliance of the procedure.

Matter to appear on 09.08.2019.

(SONIA GOKANI, J)

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