

OD – 1 & 2

ORDER SHEET  
IN THE HIGH COURT AT CALCUTTA  
ORIGINAL JURISDICTION  
ORIGINAL SIDE

IA NO. CA/42/2014  
(Old No: CA/524/2014)  
BIFR/520/1992

IN THE BHARAT PROCESS & MECHANICALS ENG. LTD. (IN LIQN.)  
Vs  
O.L

&

IA NO. CA/40/2013  
(Old No: CA/400/2013)  
BIFR/520/1992

IN THE BHARAT PROCESS & MECHANICALS ENG.LTD.(IN LIQN.)  
-AND-  
RE: T.P.G. EQUITY MANAGEMENT PVT. LTD  
-VS-  
O.L., HIGH COURT, CALCUTTA

BEFORE:

The Hon'ble JUSTICE I. P. MUKERJI

Date : 01<sup>ST</sup> OCTOBER, 2021.

Appearance :  
Mr. Nanda Lal Singhanian, Adv.  
Mr. S. Chakraborty, Adv.

Ms. Lapita Banerji, Adv.  
Ms. S. Dutta, Adv.

Mr. S. S. Banerjee, Adv.  
Mr. R. K. Mitra, Adv.

Ms. S. Shah, Adv.

The Court : I direct the learned Registrar General of this Court to immediately send a copy of this order to the Chief Secretary, Government of Odisha and also to the Secretary, Department of Heavy Industry under the Ministry of Heavy Industries and Public Enterprises, Government of India.

The reasons for doing so are as follows :-

Either the Collector, Keonjhar district has not understood the seriousness and purport of the orders of this Court or is deliberately not cooperating with this Court to implement its orders.

BPME limited is in liquidation and this Court is in seisin of liquidation proceedings.

The properties of this company included freehold land and mines in Odisha, namely, Kolha Roida, Thakurani and Dalki. The freehold land its measures about 200 acres.

By this Court's order dated 9<sup>th</sup> August, 2019, this Court had noted that the lease of each of these mines had expired. The lease was held by the company in liquidation under the Central Government which owned the mine. It could only be renewed in favour of a government company. Since the lessee had gone into liquidation, it could not be renewed in its favour. Yet, the leases could be renewed in favour of the official liquidator through the agency of Odisha Mineral Development Company (OMDC) or TPG Equity Management Private Limited, the assignee of the secured creditor.

This Court had directed a high power committee to be formed by the Central Government to take a decision in this regard. The High Power Committee, I am told has been formed after much delay but no decision is forthcoming.

Therefore, I direct this High Power Committee to immediately take a decision in terms of the order dated 9<sup>th</sup> August, 2019 within three months from the date of the communication of the order. The Secretary, Department of Heavy Industries, Ministry of Heavy Industries and Public Enterprises shall take all steps to ensure that this order is complied with.

Further, to this Court's subsequent order dated 12<sup>th</sup> March, 2021, the Official Liquidator attached to this Court met the District Magistrate, Keonjhar and held a meeting. They have filed a joint report dated 18<sup>th</sup>

March, 2021 where, inter alia, they have stated that the District Magistrate-cum-Collector, Keonjhar declared that the freehold land held by the company was only 24.222 acres as compared to the claim that the company held over 200 acres of such land.

The lack of appreciation of the Collector and District Magistrate of the gravity of the situation appears from the following extract from the joint report dated 18<sup>th</sup> March, 2021 :

“In reply the Collector & District Magistrate, Keonjhar expressed regarding handing over the properties stood in the name of the company in liquidation (M/s BPME Ltd) that the matter has been raised before the Govt. of Odisha Steel & Mines Department in view of the reasons stated supra. Reiterating his averment the Collector also stated that the properties of M/S BPME Ltd (In Liquidation) are covered in the Certificate Case No.32 of 2018 for realization of a heavy amount under Orissa Public Demand Recovery Act 1962. For the purpose of which, the Collector, Keonjhar has already moved Govt. in Steel & Mines Department, Odisha, Bhubaneswar for clarification. The same is awaited. The Collector, Keonjhar with most regard to the order dated 12.03.2021 of Hon’ble High Court, Calcutta step will be taken for handing over possession of the properties of the certificate debtor (M/s BPME Ltd) only after receipt of clarification. Further, the official liquidator, High Court, Calcutta may contact Steel & Mines Department, Odisha, Bhubaneswar (competent authority) to safe guard the interest of the secured creditor and with regard to the renewal of the lease as per the direction of Hon’ble High Court, Calcutta vide order dated 09.08.2019.

The meeting ended with vote of thanks.

Submitted for kind appraisal of Hon’ble High Court, Calcutta.”

In those circumstances, I direct the Chief Secretary, Government of Odisha to suitably direct the Collector and District Magistrate and the land authorities in Keonjhar district, and ensure that upon the Official Liquidator of this Court visiting the district, the said authorities will cooperate with him so as to identify the freehold land belonging to the company in liquidation and demarcate the same pending further orders of this Court. Such land shall be in the possession of the Official Liquidator.

The official liquidator will visit the properties of the company in liquidation in Odisha by 31<sup>st</sup> October, 2021.

Ms. Shah and Mr. Banerjee representing the workers have also submitted that during this festive season, some disbursement should be made from the fund in the hands of the Official Liquidator to the employees of the company.

I direct that out of the fund in the hands of the official liquidator Rs.25 lakhs be distributed among the employees whose claims have been admitted by the Official Liquidator, pro rata that is to say in the same ratio in relation to Rs.25 lakhs as each claim bears to the total claim of the employees whose claims have been admitted. This disbursement should be made as early as possible not later than 25<sup>th</sup> October, 2021.

List this matter in February, 2022 on the first available date.

The official liquidator will file a report in this Court before the returnable date with copies circulated to all appearing parties.

(I. P. MUKERJI, J.)