

HELD: 1. Though the stock of products is pledged with Banks and they have a priority in law, but it is the result of the hard-work of the workers that these stocks could be produced. Therefore, it could not be said that the wages and emoluments for the period upto closure would not rank in priority. Their subsistence and living is also of paramount importance and has to rank with highest priority. For this reason the Government of India is keen to have a scheme for revival of this industry and the State Government also desires that the workers should be paid their salaries. [1219A-D]

2. Looking to all the circumstances and taking a broad and humane view of the situation it would be just and proper that these goods which are lying in stock should be sold out and out of the sale proceeds the workers should be paid their dues upto the date of the closure (from May 1984 to 8th July, 1984). The Official Liquidator will ensure that the disposal fetches the best rates. This shall be completed within two months. [1219F]

3. The financial institutions have other sufficient securities and properties of the Company and if the stocks of finished products are sold to meet the basic requirements of the workers, their interests would not be in jeopardy. [1219G-H]

4. The balance out of the sale proceeds, if any, will be utilised for meeting other pressing demands in the discretion of the Official Liquidator subject to orders of the Court. [1220B]

5. The Official Liquidator may keep the amount of insurance claim separately and allow the State Bank to adjust the same against its insurance. [1219G]

6. Issuance of the Notification by the Bihar State Government will not come in the way of sale of these assets and payment of the workers. [1220C]

ORIGINAL JURISDICTION: Writ Petition No. 5222 of 1985.

Under Article 32 of the Constitution of India.

R.K. Garg, R.S. Singh and S.K. Verma for the Petitioner.

K. Parasaran, Attorney General, B. Datta, Additional Solicitor General, A.K. Ganguli, Dr. Y.S. Chitale and Dr. Shankar Ghosh,

- A** P.P. Singh, Ranjit Kr. Pramod Dayal, D. Goburdhun, K. Swamy, Ms. Sushma Suri, Probir Mitra, A.K. Ghose, M.M. Gangadeb, Dhanjay Chandrachud, P.R. Seetharaman, D.K. Sinha, K.R. Nambiar and A.K. Sil for the appearing parties.

The Order of the Court was delivered by

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OZA, J. Heard learned counsel for the petitioners as well as the respondent, the various financial institutions including the Banks and also counsel for the State of Bihar. By orders of this Court dated 5.2.86 it was directed that all salaries and wages due to the workers from May 1984 onwards shall be paid to them in three instalments. It appears that they have not yet been paid inspite of the directions from

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this Court. It was also brought to our notice that notwithstanding that order of this Court, the State of Bihar has issued a Notification dated December 12, 1986, wherein this industry has been declared to be a sick industry under Section 3 of the Bihar Relief Undertakings (Special provisions) Act, 1981 (Bihar Act No. 12 of 1982) and by this

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Notification the Bihar Government has declared the said Industrial Undertaking shall be and remain a relief undertakings for one year from the date of issue of the Notification. On the basis of this an attempt was made to suggest that the liability of the industry for payment to the workers can not be enforced. However, learned counsel appearing for the State of Bihar frankly conceded that so far as the

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liability of payment of wages to the workers is concerned the State Government wants that it should be paid. As directed by this Court a report had been submitted by the Official Liquidator in the case of this industry. This report shows that the products produced by this industry which are lying in stocks are of the value of Rs.91,77,000. This report also discloses that from the month of May, 1984 till 8th July, 1984

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when this industry closed down an amount of Rs.89,00,000 remains to be paid to the workers as their salaries and emoluments.

- The learned counsel appearing for the State Bank of India and other financial institutions attempted to contend that these goods which are the finished products lying in stock are pledged with these
- G** Banks and, therefore, they have a prior claim over the sale proceeds of these stocks and it was, therefore, contended that this could not be sold and the workers could not be paid off. On the other hand it was suggested that in fact a scheme has been drawn up to revive the industry in the interests of the workers and the society in general and in that scheme of starting the industry again financial problems may
- H** arise and if this stock is sold out and the money collected therefrom are

paid out to the workers then it may create difficulties.

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It is no doubt true that these products the stock of which have been shown in the report and the value of which has been shown by the Liquidator as Rs.91,77,000 is pledged with Banks, is a priority in law in favour of the Banks but it also could not be disputed that these stocks were the products of this industry before its closure and, therefore, the workers also contributed their labour and it is the result of their hard-work that these stocks could be produced and in our opinion, therefore, it could not be said that the wages and emoluments for the period upto closure would not rank in priority. It is also significant that after the closure in July, 1984, till today in spite of the order passed by this Court the workers have not been paid. Their subsistence and living is also perhaps of paramount importance and has to rank with highest priority. It is in view of this as it appears, that the Government of India is keen to have a scheme for revival of this industry. Learned counsel for the State of Bihar also frankly conceded that so far as payment to the workers is concerned the State Government also desires that they should be paid their salaries. It is no doubt true that at present there are no assets available out of which the whole payment of all the dues to the workers from May 1984 till today could be done but from out of these assets the products which are lying in stocks valued at Rs.91,77,000 the salaries and the dues of the workers from May 1984 till the date of closure could be made. It was contended that in case these stocks are liquidated and the amount collected are paid off to the workers, difficulty may arise as this asset which has been taken into account will not be available for the scheme of re-starting the industry. Looking to all the circumstances and taking a broad and humane view of the situation we are of the opinion, that it would be just and proper that these goods which are lying in stock should be sold and out of the sale proceeds the workers should be paid their dues upto the date of closure (from May 1984 to July 1984 i.e. 8th July, 1984) so that at least they will get something for subsistence. Learned counsel for the State Bank of India pointed out that his client has paid for the insurance of certain assets and for loss thereof in whole or in part, the insurance has paid for the loss. The Official Liquidator may keep that amount separately and allow the State Bank to adjust the same against its insurance. So far as the pledge and the priority of the financial institutions are concerned, we have no doubt that they have other sufficient securities and properties of the Company and, therefore, if this stock of finished products are sold to meet the basic requirements of the workers, their interests would not be in jeopardy. Apart from it, we also hope and trust that if the loss of this amount of Rs.91,77,000

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- A** somehow comes in way of the scheme of re-starting of the industry, the Government of India would find funds to save the situation and help early revival of the Company. We therefore direct that these stocks which are lying with the industry valued at Rs.91,77,000 shall immediately be disposed of and out of this the wages and other dues of the workers for the period from May 1984 till 8th July, 1984, shall be met.
- B** The balance, if any, will be utilised for meeting other pressing demands in the discretion of the Official Liquidator subject to orders of the Court. We are sure that the Official Liquidator will ensure that the disposal fetches the best of rates. We may also make it clear that issuance of the notification by the Bihar State Government will not come in the way of sale of these assets and payment to the workers.
- C** We direct that this shall be completed within two months from today. The case may come for further directions in third week of July.

We expect that by then with the lead taken by the Central Government, the scheme of revival would have made sufficient headway and everyone would be in a position to have an optimistic view of the situation.

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A.P.J.