

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 24424 of 2022****With****R/SPECIAL CIVIL APPLICATION NO. 13585 of 2022****With****R/SPECIAL CIVIL APPLICATION NO. 1603 of 2023****With****R/SPECIAL CIVIL APPLICATION NO. 3370 of 2024****With****CIVIL APPLICATION (FOR PRODUCTION OF ADDITIONAL EVIDENCES)****NO. 1 of 2024****In****R/SPECIAL CIVIL APPLICATION NO. 3370 of 2024****With****R/SPECIAL CIVIL APPLICATION NO. 4089 of 2024****With****CIVIL APPLICATION (DIRECTION) NO. 1 of 2024****In****R/SPECIAL CIVIL APPLICATION NO. 4089 of 2024****With****R/SPECIAL CIVIL APPLICATION NO. 4185 of 2024****With****CIVIL APPLICATION (DIRECTION) NO. 1 of 2024****In****R/SPECIAL CIVIL APPLICATION NO. 4185 of 2024****With****R/SPECIAL CIVIL APPLICATION NO. 4234 of 2024****With****CIVIL APPLICATION (FOR PRODUCTION OF ADDITIONAL EVIDENCES)****NO. 1 of 2024****In****R/SPECIAL CIVIL APPLICATION NO. 4234 of 2024****With****R/SPECIAL CIVIL APPLICATION NO. 4364 of 2024****With****CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2024****In****R/SPECIAL CIVIL APPLICATION NO. 4364 of 2024****With****R/SPECIAL CIVIL APPLICATION NO. 4350 of 2024****With****CIVIL APPLICATION (DIRECTION) NO. 1 of 2024****In****R/SPECIAL CIVIL APPLICATION NO. 4350 of 2024****With**

R/SPECIAL CIVIL APPLICATION NO. 9712 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 9758 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 13440 of 2022
With
CIVIL APPLICATION (FOR BRINGING HEIRS) NO. 1 of 2024
In
R/SPECIAL CIVIL APPLICATION NO. 13440 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 9742 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 9759 of 2021
With
R/SPECIAL CIVIL APPLICATION NO. 15529 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 25791 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 7658 of 2024

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P. T. STEEL INDUSTRIES
Versus
LABOUR COMMISSIONER, GUJARAT STATE & ORS.

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Appearance:

KS NANAVATI SR. ADVOCATE with DHARMESH DEVNANI with KUNAL
NANAVATI with MAYUR DHOTARE for NANAVATI ASSOCIATES(1375) for the
Petitioner(s) No. 1
MS SURBHI BHATI AGP for the Respondent(s) No. 3
MR P C CHAUDHARI(5770) and JWALIT SONEJI for the Respondent(s) No. 3
NOTICE SERVED BY DS for the Respondent(s) No. 1,2

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**CORAM: HONOURABLE MR. JUSTICE HEMANT M.
PRACHCHAK**

Date : 29/08/2024

ORAL ORDER

1. It appears that the issue pertains to the legality and validity of closure of the company in the year 2005 in question. It emerges that respondent No.2 has not decided the application

filed by the company seeking permission of closure of the unit. It is the case of the petitioner that in fact, the petitioner has put up the notice dated 10.01.2005 without following the due procedure under Section 25-O of the Industrial Disputes Act and the company has simply informed the competent authority and by affixing the notice on the notice board of the company. However, since the authority has not decided the application, the company has preferred the present petition/s.

2. Heard Mr.K S. Nanavati, learned senior counsel with Mr.Dharmesh Devnani, learned counsel with Mr.Kunal Nanavati, learned counsel with Mr.Mayur Dhotare, learned counsel appearing for the petitioner for Nanavati Associates, Mr.P. C. Chaudhari, learned counsel appearing for some of the workmen, Mr.Jwalit Soneji, learned counsel appearing for some of the workmen and Ms.Surbhi Bhati, learned Assistant Government Pleader appearing for the respondent - State Authorities.

3. Mr.Nanavati, learned senior counsel has submitted that since 2005, the company is already closed, however, the

concerned authority has not considered such fact and till date, the concerned authority has not issued closure certificate for closure of the company and, therefore, let the direction be issued to the competent authority to decide the application.

4. Per contra, Mr.Chaudhari, learned counsel and Mr.Soneji, learned counsel appearing for the respective workmen have objected the petition and submitted that from 2005 till date, the company has never approached the competent authority by way of following the prescribed procedure and manner in which the company has to make an application before the competent authority for seeking permission for closure of the unit under Section 25-O of the Industrial Dispute Act. According to both the learned counsel, before actually effecting of the closure of the company prior thereto 90 days, the company has to make an application in the prescribed form as provided under the statute and the Rules, which the company has not done and, therefore, the concerned authority has clearly opined that the action of the company for closure of the unit itself is illegal.

5. Ms.Surbhi Bhati, learned Assistant Government Pleader appearing for the respondent - State Authority has tendered the copy of the communication dated 28.07.2024 along with the status of the criminal case which is filed against the director of the company and its partners, which is taken on record.

6. Considering the facts of the case and the settled legal principles and the provisions of Section 25(o) Sub-Section (3) of the Industrial Disputes Act read with the Rules framed thereunder, it is an admitted fact that the company has not filed an application under the statutory prescribed form for seeking approval of the competent authority for closure of the unit and that too prior to 90 days of actual closure of the unit and, therefore, the respondent - authority is supposed to decide the issue as to whether the petitioner is legally or illegally closed the unit or not. However, the fact remains that till today, the petitioner has not moved any application, though the show-cause notice came to be issued by the authority and at the first instance the petitioner has not reverted such show-cause notice. Upon issuance of the second show-cause notice, the petitioner

has remained present and not complied with the legal provision of law and not explained satisfactorily before the authority and hence, the authority has initiated criminal proceedings, which is at present pending before the Court concerned against the directors of the company. Under such circumstances, now at this stage, the Court is of the opinion that let the petitioner may approach the competent authority for seeking permission for closure of the unit under Section 25(o) of the Industrial Disputes Act and produce relevant documents.

7. In view of the above, the petitioner shall file appropriate application seeking permission for closure of the unit before the competent authority within a period of two weeks from the date of receipt of this order. The competent authority shall decide the application in accordance with law after giving opportunity of hearing to the parties including the workmen and/or representative of the workmen as expeditiously as possible preferably within a period of two months from the date of receipt of the copy of this order. The competent authority shall decide the question as to whether the petitioner is entitled for such

prayer on which the company has sought permission for closure of the unit or not.

8. The petitioner and the respondents shall raise all such contentions available under the law before the competent authority and the same shall be considered by the competent authority for deciding the application in accordance with law. This order shall not come in the way of the Labour Court for deciding the pending proceedings.

9. In the meanwhile, the petitioner - Company is directed to deposit Rs.1 Crore before the Registry of this Court within a period of three months and the company shall not sell the property of the company during the pendency of the application that may be decided by the authority.

The matter is adjourned to **5th December 2024.**

V.R. PANCHAL

(HEMANT M. PRACHCHHAK,J)