

(2003) 07 KAR CK 0119
In the Karnataka High Court
Case No : Writ Petition No. 18755 of 2001

Mittal Steels Ltd. and Another

APPELLANT

Vs

Appellate Authority for Industrial and Financial
Reconstruction and Others

RESPONDENT

Date of Decision : 25-07-2003

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Sick Industrial Companies (Special Provisions) Act, 1985 — Section 15, 21, 3 (1) (o)

Citation : (2004) 4 BC 497 : (2004) 118 CompCas 661 : (2004) 1 KCCR 14 SN :
(2004) 56 SCL 92

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : K.G. Raghavan, Rayappa Hadagali, M. Dhyan Chinnappa and Arun Kumar and Dua Associates, for the Appellant; Dave and Girish and Co. and Sunita Srinivas, for respondent No. 3, Padubidri Raghavendra Rao, P.R. Mohan Rao and V. Haradas Bhat for respondent Nos. 3, 4 and 6 to 9, M.N.L. Ramanjaneya Gowda, G.A. for respondent No. 5, Arvind Kumar, for respondent No. 10 and Ashok Haranahalli, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—The first petitioner is a limited company owning a factory manufacturing steel and the second petitioner is the managing director of the first petitioner-company. The writ petition is presented complaining about the orders passed by the Board for Industrial and Financial Reconstruction, the second respondent and confirmed by the Appellate Authority for Industrial and Financial Reconstruction in respect of the reference made by the petitioner-company u/s 15 of the Sick Industrial Companies (Special Provisions) Act, 1985. The petitioners complain that the proposal placed before the Board in the form of reference by the board of directors of the first petitioner-company has not received due consideration at the hands of the Board and their appeal to the 1st Appellate Authority also met with the same fate and as such the petitioners are

before this court seeking for quashing of these orders as also for quashing the show-cause notice dated February 2, 2001, and the advertisement pursuant to the notice carried out in the Indian Express daily, Bangalore edition dated February 23, 2000. The show-cause notice is a proposal for winding up the affairs of the first petitioner limited company under the provisions of Section 21 of the Act.

2. The petitioners claim that the first petitioner-company had become a sick industrial company within the meaning of this phrase occurring in Section 3(1)(o) of the Act and as such had submitted a proposal for rehabilitation and had requested the Board to declare the company a sick industrial company placing necessary information before the Board u/s 15 of the Act. The Board on examination of the information placed before it prima facie being of the view that the applicant-company has become a sick industrial company within the meaning of Section 3(1)(o) of the Act had declared it to be so.

3. The Board also found that the company could not revive on its own and further measures contemplated u/s 18 of the Act were required to be taken in public interest, took such further steps by appointing the Industrial Investment Bank of India as the operating agency u/s 17(3) of the Act, to examine the viability of the company and to come up with a rehabilitation scheme for the revival if found viable. Copy of this order dated May 22, 1999, passed by the Board is produced as annexure A to the petition.

4. It appears that the company had also proposed and had placed the rehabilitation proposal as per its letter dated September 22, 1999. The operating agency also held meeting on November 30, 1999, which the petitioner-company admittedly did not attend and for which it is submitted that the petitioner-company has justifiable reason.

5. The operating agency after holding deliberations with other institutional creditors of the petitioner-company was of the view that as the major institutional creditors of the petitioner-company were not willing to risk further investment in the petitioner-company particularly in the light of the previous conduct and the non-co-operation on the part of the management of the petitioner-company with the financial institutions, it was found not possible to make the company viable within the Reserve Bank of India parameters for the rehabilitation of sick companies. Accordingly it was suggested that the managing director of the company himself may come up with some acceptable scheme of one-time settlement with the secured creditors, and if not, to have further negotiations with the financial institutions located at Bangalore, in this regard. It appears thereafter the Board passed order dated June 13, 2000, copy at annexure M and issued directions as under :

"(i) OA would issue advertisements in leading newspapers within two weeks inviting offers for the takeover/leasing/amalgamation/merger for rehabilitation, with or without OTS of the dues of FIs and banks giving eight (8) weeks time for

submission of offers. The present promoters may also submit, if they so wish, a fully tied up comprehensive rehabilitation proposal indicating clearly the means of finance in response to the advertisement with or without induction of a resourceful co-promoter. In case the proposal is based on settlement of the dues of the secured creditors by way of OTS, the same should have the approval of the secured creditors. The schemes submitted in response to the advertisement may provide for the measures listed in Section 18(2)(i) and 18(11) of the Act. The relative merits of the offers received would be examined by the OA, a comparative statement prepared, a joint meeting held after circulation of background note to all concerned and a report submitted to the Board based on the evaluation of the relative merits of the offers received and the consensus arrived at in the joint meeting within a further period of four weeks. The cost of the advertisement would initially be borne by the OA and would subsequently be reimbursed by the company.

(ii) The OA would prepare a profile of the company based on the details available with them and would also prepare a list of the inventory and make the same available to the interested bidders.

(iii) The OA would furnish to the Board on the expiry of ten weeks the details of the offers received in response to the advertisements. In the event that no concrete rehabilitation proposal is received in response to the advertisements, the Bench may consider other alternatives, including issuing a show-cause notice for winding up without holding any further hearing.

(iv) On receipt of the OA's report, the Bench would pass further appropriate orders.

(v) The company would submit their audited balance-sheet as on September 30, 1999, and provisional balance-sheet as on March 31, 2000, to the OA, secured creditors and the Bench within one month positively.

(vi) The company would submit a statement of its account with Vysya Bank for the period from the date of reference to BIFR up to May 31, 2000, to the secured creditors, the OA and the Bench within 15 days positively and continue to submit such statements on monthly basis.

(vii) Since the company/promoters have not been able to come up with an acceptable rehabilitation proposal despite lapse of over a year, the secured creditors may initiate legal proceedings for recovery of their dues with the condition that decrees, if any, obtained by them would not be executed without the permission of the Bench.

(viii) The secured creditors may, if they so desire, arrange at their cost, for posting of security guards for custody of the assets charged to them.

(ix) The OA would examine, in consultation with the secured creditors, the desirability of taking over the property, effects and actionable claims to which the company is entitled, u/s 29 of the Act and submit their report to the Bench in

this regard within two months positively."

6. The petitioner-company being aggrieved with these directions had appealed to the Appellate Authority u/s 25 of the Act. The Appellate Authority having dismissed the appeal as per its order dated August 28, 2000, copy at annexure R the petitioner has sought for quashing of the orders of the Board as well as the Appellate Authority and for issue of further directions for reconsideration of the reference in the light of various clarifications and objections that had been furnished by the petitioner-company to the views of the operating agency and for further directions to the Board to consider the rehabilitation proposals of the petitioner.

7. It is contended that the orders passed by the Board and the Appellate Authority are not in accordance with law. That they are arbitrary and unreasonable. That the order passed by the Board is also in violation of the principles of natural justice and the petitioner had not been supplied with the copy of the minutes of the joint meeting, that the Board has not applied its mind before passing the order ; that the Appellate Authority has committed serious mistake by not examining various grounds urged in support of the appeal ; that neither the Board nor the Appellate Authority have appreciated the proposal put forth by the petitioner ; that it was a practical and viable proposal for the rehabilitation of the sick unit ; that the Board and the Appellate Authority should have accepted the proposal suggested by the petitioner and should have passed orders thereafter ; that the failure on the part of the petitioner to attend the meeting held on June 9, 2000, could not have been held against the petitioner. Particularly as they had very valid and justifiable reasons for not attending the same ; that the Board as well as the Appellate Authority acted in dereliction of their duty in blindly accepting the report of the operating agency ; that the Board as well as the Appellate Authority rather than considering the proposal on the part of the petitioner from the point of rehabilitating the sick unit, instead viewed the same from the angle of the financial institutions who were not willing to advance further amounts to the company for its further improvement and such approach has vitiated the orders. Also that the Board failed to see that the operating agency had totally mislead the Board by submitting the report even without conducting techno economic study of the petitioner-company and there are all glaring failures on the part of the Board and the Appellate Authority. It is prayed that it is imperative to set aside these orders and the Board directed to consider the reference in the light of the various proposals given by the petitioner-company and to pass orders afresh.

8. Statement of objections have been filed on behalf of respondents Nos. 3, 4, 6 to 8 who are all financial institutions who had financed the petitioner-company. The averments are mainly as follows.

9. It is, inter alia, asserted that the operating agency had in fact looked into the entire aspect, considered the viability of rehabilitating the company within the parameters of the RBI guide lines and found that it was not possible and

accordingly, submitted its report to the Board. It is also stated that the Board, in fact, had considered several possibilities after having found that it is not possible to make the petitioner-company viable and to take other necessary steps, had issued directions as per its order. The answering respondents in particular have asserted in chorus that all the financial institutions had lost faith and confidence in the petitioner-company that its conduct during the pendency of the proceedings only confirmed the suspicions of the financial institutions that the petitioner did not co-operate With the financial institutions in the matter of repayment, it also resorted clandestinely parting the assets of the company and indulged in presumptive sale of assets hypothecated/mortgaged in favour of the financial institutions even while opposing the request of the financial institutions to put them to auction sale to satisfy at least a part of outstanding debts. That both the Board and the Appellate Authority have passed orders which are valid and in consonance with the provisions of the Act. They have prayed for dismissal of the writ petition.

10. Sri K. G. Raghavan, learned counsel for the petitioner has urged several points for consideration. Learned counsel submits that the order of the Board suffers from a basic infirmity inasmuch as the Board itself is required to assume a proactive role as it is set up for the purpose of looking into schemes for reviving or rehabilitating sick units particularly having regard to the objectives of the Act, It is submitted that the Board has instead viewed the matter as though it is a lis between the petitioner-company and the financial institutions ; that in fact, such approach has vitiated the entire proceedings ; that the Board failed to notice that proceedings before the Board were not adversary in nature as between the parties. Learned counsel also submits that the Board, after having passed an order directing the operating agency to submit the report about viability of the company, particularly, that the detailed techno economic study about the viability of the company should have been carried out as directed ; that keeping in view the current industrial profile as well as the prospects for the next six to seven years with appropriate demand forecasting and taking into account competent segments in the other units. Learned counsel submits that the Board has given a go by to this in its order dated June 19, 2000, and by simply accepting the report of the operating agency and even without such a report being based on a techno economic viability study in itself is sufficient to vitiate the order passed by the Board.

11. Sri K. G. Raghavan also submitted that the Board failed to appreciate the proposal given by the petitioner particularly its revised proposal in the light of the changed policy of the Government in the matter of production of steel, import and export of steel and extending certain facilities and concessions in the matter of levy of excise duty applicable to the steel industry. When the petitioner had pointed out that in the light of the changed scenario, it was quite possible to rehabilitate the sick unit by investing some further funds. Non-examination of this proposal both by the operating agency as well as by the Board has not only vitiated and has frustrated the very purpose of a reference being made to the

Board u/s 15 of the Act. Learned counsel submits that the Board has not conducted an enquiry as contemplated u/s 16 of the Act and the orders impugned in the writ petition deserve to be set aside. Learned counsel has also placed reliance on the reported decision of this court in *Bharat Gold Mines Officers Association v. Union of India* [2001] Lab IC 1659. Learned counsel submits that in the light of the ratio laid down in this case which is applicable to the facts of the present case also, the order passed by the court has to be set aside and the matter is required to be remanded to the Board.

12. Sri Padubidri Raghavendra Rao, learned counsel for the contesting respondents appearing for the financial institutions submits that the petitioner has not approached this court with clean hands and that the petitioner is using the process of this court only to stall the proceedings and in fact, has taken undue advantage of the pendency of the proceedings before the Board and the Appellate Authority, by selling away even pledged goods of the petitioner-company clandestinely. That the petitioner-company either opposed any move on the part of the financial institutions to realise any amount by effecting sale of the stock and movables of the defaulting company, have by themselves sold them and diverted the funds elsewhere ; That the board of management have misused the funds of the company to make it sick ; That the company and the board of management have not inspired confidence in the financial institutions ; That the petitioner-company and the board of management were not prepared to work for the rehabilitation of the company, but they wanted only the financial institutions to meet the financial liability for further rehabilitation of the sick company ; That the financial institutions have every right to disapprove a scheme of proposal put forth by the petitioner which they found was neither workable within parameters of the guidelines issued by the Reserve Bank of India nor in public interest ; That the board of management failed to realise that there is absolutely no possibility for reviving the petitioner-unit. The resolution as enacted in the minutes of the meeting held on November 30, 1999, was submitted to the Board by the operating agency that the Board has consciously examined the various aspects of the report submitted by the operating agency and the Board also realised that it was not possible to revive the company and had issued directions for further action as per its order dated June 19, 2000. That the said order was in conformity with the provisions of the Act and law, taking into consideration all relevant aspects ; That it did not suffer from any errors as it is sought to be contended on behalf of the petitioner. Learned counsel submits that the Appellate Authority also had occasion to look into the various contentions urged and found no merit and dismissed. He further submitted that the order does not suffer from any infirmity as urged on behalf of the petitioner.

13. Sri Raghavendra Rao also submits that this court does not exercise appellate jurisdiction over the Board or the Appellate Authority. That while exercising jurisdiction under article 226/227, this court examines only the jurisdictional irregularities in the matter of Board passing orders, but not an examination on the merits of the order. That the orders impugned being in consonance with the

provisions of the Act, there is no need to set aside the orders, that the writ petition deserves to be dismissed,

14. Learned counsel also submits that in the matter of reconstruction of a sick industrial company, the possibilities of the rehabilitation may be examined and the exercise should be completed as expeditiously as possible and it cannot be allowed to be a long-drawn process which virtually defeats the purpose of the company. He submits that as there is a failure by a defaulting unit to pay the financial institutions who find that it is no more possible to rehabilitate the company, the financial institutions should be allowed to recover their dues by not allowing available assets of the company to go waste by bringing them to sale as early as possible. That the pendency of this petition before this court would only come in the way of the financial institutions in taking steps in that direction and that it would also come in the way of implementing action.

15. Learned counsel submits that this petition may be dismissed straightaway.

16. It is urged that in fact, the order passed by the Board cannot be construed as a final order which could have been made the subject matter of an appeal or for issue of a writ of certiorari by this court. On this ground also, learned counsel request that the writ petition may be dismissed. In this regard, Sri Raghavendra Rao has brought to the notice of this court the following decisions :

(a) Marathwada Alloy Steels Co. Ltd. v. Union of India [1998] 91 Comp Cas 419 ;

(b) Vinedale Distilleries Ltd. v. Appellate Authority for Industrial and Financial Reconstruction [2002] 108 Comp Cas 166.

17. Learned counsel seeks to distinguish the single Bench decision of this court in the case of Bharath Gold Mines Officers Association [2001] Lab IC 1659 stated supra. That was a decision rendered in the context of the welfare of the employees and not merely for the purpose of rehabilitation, that the employees should not suffer as the closure of the company involved loss of jobs to thousands of employees, whereas in the present case, the employees of the sick unit have already been retrenched and that the unit has come to a stand-still totally and the aspect of the interest of the employees being safeguarded does not survive for consideration in the present case. Learned counsel also submits that the question of issuing directions by setting aside the orders at this point of time, does not arise at all, particularly when the company became sick long back.

18. I have given my anxious consideration to the rival submissions of learned counsel at the Bar on behalf of the parties. The matter is one which arises in the context of the reference made to the Board for Industrial and Financial Reconstruction u/s 15 of the Act. It is no doubt true that the Board has declared the petitioner/company as sick industrial unit, after examining the financial status as reflected in its audited accounts of the company.

19. The Sick Industrial Companies (Special Provisions) Act, 1985, was enacted by Parliament and the statement of objections itself indicate that an expert body

such as the Board should be entrusted with the powers to examine the schemes and proposals for reviving and rehabilitating such viable sick industrial companies in the larger interest of the society, particularly as companies becoming sick was increasing and as huge investment on material was involved and such large investment should not be allowed to go waste in the interest of the society and the country. For such purpose, procedure to be followed by the Board was laid down and the Board could enlist the services of expert bodies, particularly by appointing a financial institution as operating agency to examine and submit a report.

20. The other aspects indicated in the object and reasons are that as large public funds financed by public institutions are involved in running of such industrial units, it is very necessary to examine the possibilities of making sick industrial companies viable so that they are put back on rails and production renewed for the benefit of all concerned and if such possibilities are not in existence, to ensure that the assets of such sick industrial companies are not allowed to go waste by the speedy determination by a board of experts of the measures to realise the remaining assets of the sick companies and also an expeditious enforcement of the same so that the financial companies can realise the available assets of the non-viable company and such assets are not allowed to be wasted. Recovery of the amounts lent by the financial institutions expeditiously and without loss of time, was the other object of the Act.

21. The Supreme Court had occasion to examine the scope of proceedings before the Board and position of the parties before the Board, i.e., the sick industrial unit vis-a-vis the financial institutions etc. In the case of S.R.F. Limited Vs. Garware Plastics and Polyesters Ltd. and Others, , the Supreme Court has indicated that proceedings before the Board should be disposed of expeditiously to achieve the objects of the Act and that not only an industry which has become sick should be detected and more importantly the proceedings for revival or rehabilitation should be completed within a short time-frame and at any rate within six months thereafter, i.e., after such notification. The Supreme Court observed that it is very essential for the companies to realise the purpose and object of the Act. The Supreme Court has also held that the proceedings should not be allowed to be used by the other companies for restraining rehabilitation of the sick company, in particular by rival company. This observation equally applies to any other deliberate tactics for protracting the proceedings, by a company to take undue advantage of the facilities provided u/s 22 of the Act. See Deputy Commercial Tax Officer v. Corromandal Pharmaceuticals [1997] 89 Comp Cas 1.

22. Mr. Raghavan, learned counsel for the petitioner could have been more correct when he submitted that the proceedings before the Board are not adversary in nature. It is true there is no lis which is sought to be resolved as between the sick industrial unit and its lenders/financial institutions before the Board. It is also not the rights of the petitioner or that of any financial institutions that are being examined by the Board, It is not the rights that are in

examination before this court on the larger possibilities by examining viability of a sick industrial unit by rehabilitating the same by taking such steps as are possible in co-operation and taking into confidence the financial institutions and within the parameters issued by the RBI and etc. At the same time, it cannot be said that the proceedings before the Board can proceed to the detriment of any party in the proceedings, that the view of a party which is being aired should not be taken note of. Just because there is no lis which is sought to be looked into by the Board as between a sick industrial unit and these financial institutions, it cannot be gainsaid that the views of the financial institutions can be brushed aside by the Board. Financial institutions have a stake in the matter. They have already invested their funds in the company and the financial institutions are eager to get back their funds on commercial basis. The declaration of a company as a sick industrial unit also operates as a moratorium in realisation of debts of the financial institutions and in this scenario, it cannot be said that financial institutions need not be heard at all in the matter and their views need not be taken into consideration. An argument of this nature, in fact is in the teeth of following the principles of natural justice as such, as the financial institution can be considered to be an affected party in the proceedings before the Board and it should not only be heard and allowed to express its views, but, these views are also to be considered in the overall context.

23. Though, no doubt, as learned counsel for the petitioner contends, the role of the Board is not of a mere neutral party like that of a court in a lis between parties, but it cannot be at the same time said that the Board has to necessarily adopt a view always favourable to the sick industrial unit. The Board is an expert body to examine the possibilities of making a sick industrial unit viable within the parameters provided for and in accordance with the statutory provisions under the Act. The Board cannot compel the management of the sick industrial unit to conduct in such a manner as to inspire confidence in financial institutions. It is for the management of such financial institutions to gain the confidence of the financial institutions. In the present case, I am satisfied that the Board has discharged its function within the parameters of such guidelines and in accordance with the statutory provisions.

24. So far as the contention that the Board failed in its duty in not ensuring that the operating agency conducted a techno economic viability study and did not insist on the report of operating agency on this aspect/ it has to be noticed that the nomenclature in itself is not the criterion. The report of the operating agency itself is self-evident and sufficient for rejecting the argument as the report on the face of it indicates that it has taken into consideration all relevant aspects. It is also significant to note that the petitioner-company nor the board of directors attended the joint meeting held for this purpose. It is no good for the petitioner to come up with excuses or come up with explanations later. It has sought for rehabilitating the company and should have attended such a meeting and put forth its views and proposals. In the absence of the same, no exception can be taken against either the operating agency or the order passed by the Board.

25. Notwithstanding the officiating agency has taken note of the request of the petitioner-company as per its revised proposal for a term loan of Rs. 48.85 lakhs and has indicated that the financial institutions were not willing to undertake any further financial exposure in favour of the company and as such it was necessary for the promoters of the company to bear this cost. The promoters were not willing for the same. It was in this context that the officiating agency found that even after incorporating certain proposals of the petitioners into the draft rehabilitation scheme, the company was not going to become viable even for a period of over ten years as against the rehabilitation period of eight years under the guidelines as indicated in para. 1.53 of the draft rehabilitation scheme proposed by the officiating agency.

26. A perusal of the minutes of the meeting in the draft proposal placed by the officiating agency and its report that the company does not become viable even after extending all reliefs and concessions in the RBI parameters and even after allowing the maximum permissible period of ten years which was placed before the Board only indicates that the officiating agency has considered the various possibilities and that it is not as though the officiating agency has not undertaken a study of techno-economic viability of the company for rehabilitation. It is only after consideration of all aspects of the matter, the conclusion indicated in para. 17.1 of the draft rehabilitation scheme in respect of the company is arrived at by the officiating agency. It cannot be said that either the Board or the Appellate Authority had lost sight of this aspect of the matter, namely, examining the rehabilitation of the company in the context of a techno-economic viability study and the report of the O.A. in respect of the same. The petitioner-company which had sought for rehabilitation by seeking a reference u/s 15 to the Board, should have evinced sufficient interest and its conduct should be one as expected by the financial institutions. Unfortunately neither the petitioner-company evinced commensurate interest by participating in the joint meeting and placed its proposal at the relevant point of time, but its conduct before the reference was made to the Board during the pendency of the reference was such that the financial institutions became more suspicious of the bona fides of the petitioner-company, particularly by the company indulging in sharp practices by selling away the assets of the company behind the back of the financial institutions and confirming their doubts. Financial institutions are persons who have vital interest in the matter of rehabilitation of the sick industry units. Even in the matter of providing additional finance for such rehabilitation, they have every right to be heard and their views cannot be discarded. Financial institutions have a right to point out as to whether the proposals are one which can make the company viable or otherwise. The Supreme Court had occasion to observe in *S.R.F. Limited Vs. Garware Plastics and Polyesters Ltd. and Others*, , that even in a scheme for rehabilitation of a sick company for merger of the sick company in a healthy company under the provisions of Section 18 of the Act, as the merger involves the question of tax benefits by the Central Government, Central Government and the Central Board of Direct Taxes are necessary parties before the Board and

notice to them should be issued before the Board approves the scheme.

27. I am pointing out this only to demonstrate the fallacy of the submission on behalf of the petitioner that the financial institutions should not have been heard or their views given any consideration by the Board and that the financial institutions are also not entitled to oppose the writ petition before this court as the matter is not in the nature of an adversary proceedings between the petitioner-company and the financial institutions. The proceedings are definitely not in the nature of adversary proceedings but the financial institutions have every right to be heard and to place their views both before the Board and before this court in the present writ petition.

28. The whole object of the Act is for rehabilitation of a sick industrial unit as expeditiously as possible. Time is the essence of the rehabilitation scheme. Passage of time not only swells the liability of the sick unit, but available assets also may go waste. Though Sri K. G. Raghavan, learned counsel for the petitioner has made a passionate plea that the orders of the Board and the Appellate Authority could be set aside and the matter restored to the Board for a fresh consideration, this request cannot be accepted for more than one reason. While on the merits, I am unable to see the need for interference with the orders of the Board and the Appellate Authority, inasmuch as the discussion above does indicate that the Board has taken into consideration the relevant aspects and it is only after the Board realised that there was no possibility of reviving the company within the parameters of the RBI guidelines, the directions as contained in the order issued and the Appellate Authority having found the same to be in order and having confirmed the order even assuming for argument's sake that there was any technical deficiency in the passing of the order or one or two aspects have escaped the attention of the Board, this court exercising jurisdiction under article 227 of the Constitution of India may not and will not as a matter of course, interfere with such an order.

29. That apart, the proposals are in the context of rehabilitation and should be within a time-frame. A proposal made way back in the year 1998 cannot be relevant at all at this point of time. Time does not standstill. The proposals will have become redundant in the context of various developments and changes that will have taken place. It is quite possible there is considerable deterioration in the plant and machinery and the state of affairs as prevailed in the year 1998 may not be the same now. It is not merely a matter where private rights of parties are required to be determined as in an adversarial litigation. As I have observed earlier, no rights of any party are involved in a proceeding of this nature. It is not as though the petitioner has acquired a right in the matter to seek for a remand to the original authority for a reconsideration of the proposal. With the passage of time, things have naturally changed and court orders cannot put the clock back. The court cannot lose sight of this obvious position. This court will issue a writ only if the directions issued by this court can be worked out. The court will not issue futile writs as issuing of such writs will only bring

down the efficacy of the court orders. I am of the clear view that in the present case there is no possibility of issuing any writ either for quashing of the impugned orders as even assuming for argument's sake they can be quashed, no consequential directions can be issued inasmuch as the scenario is totally changed now.

30. In the circumstances, the writ petition is liable to be dismissed.

31. Accordingly, the writ petition is dismissed. Interim order dated May 10, 2001, is vacated. Rule discharged.