
(1986) 03 MP CK 0008
In the Madhya Pradesh High Court

Straw Products Ltd.

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 28-03-1986

Acts Referred:

Industrial Disputes Act, 1947 — Section 2, 25, 25N, 25O

Citation : (1987) ILR (MP) 147 : (1987) JLJ 253 : (1987) 1 LLJ 469 : (1986) 31 MPLJ 473 : (1986) MPLJ 152

Hon'ble Judges : J.S. Verma, Acting C.J.; B.M. Lal, J

Bench : Division Bench

Judgement

J.S. Verma, Actg., C.J.

Petitioner Straw Products Limited is a Public Company having its registered office at Jaykaypur, Rayagada, District Koraput (Orissa) and has one of its Division Board Mills with its office and factory at Bhopal. The Company made an application dated 8th November 1985 (Annex. A) to the Government of Madhya Pradesh u/s 250 and/or Section 25N of the Industrial Disputes Act, 1947, for permission to close machine No. 2 in the Board Mills at Bhopal resulting in retrenchment of its workmen employed in machine No. 2. The State Government by its order dated 3rd January 1986 (Annex. G) refused permission u/s 250 of the Industrial Disputes Act to close machine No. 2 for the reasons stated therein and by its order dated 4th January 1986 (Annex.J) refused the permission for retrenchment of the workmen employed in machine No. 2 u/s 25N for the same reasons. Aggrieved by this decision of the State Government, this petition has been filed for quashing these orders and other consequential reliefs.

The facts material for the purpose of this petition may now be stated. The petitioner Company has its factory known as Board Mills at Bhopal since the year 1938 wherein it has been manufacturing straw board, paper board and industrial packaging (Kraft) paper. In the Board Mills the Company has installed three machines, known as machine No. 1, machine No. 2 and machine No. 3. From the year 1938 one machine known as machine No. 1 has been used for manufacture

of straw board by using wheat straw and agricultural based raw materials. Machine No. 2 was installed in the year 1956 to manufacture 5400 tonnes per annum of Duplex Board/Grey Board/Mill Board by using waste paper of different varieties as the substantial raw material. During the year 1972 this machine underwent a balancing programme to increase production by 2000 tonnes. This machine is capable of producing 200 tonnes of paper board per annum. Machine No. 3 was installed in the year 1977 to manufacture 5500 tonnes per annum of Kraft paper by using straw gunny waste/waste paper as the raw material. The capacity of machine No. 3 has been augmented to 7600 tonnes per annum subsequently. There is no dispute that ever since the commencement of production at the Board Mills in 1938 it had been earning profits till the year 1981 and it is only from the year 1982 that the balance-sheet shows losses in the Board Mills. According to the balance sheets of the Company the loss suffered in the Board Mills in 1982 was 17.54 lacs, in 1983 it was 81.82 lacs and in 1984 it was 86.96 lacs. According to the petitioners the estimated loss for the year 1985 in the Board Mills would be higher and it was not expected to do better even thereafter.

The petitioner Company was of the view that unless machine No. 2 was closed down resulting in retrenchment of the workers employed therein it was not possible to overcome the situation or to continue the undertaking of the Board Mills by running the remaining machines since the unit cannot be commercial and economically viable without this step being taken. According to the petitioner, the total number of workmen employed in the Board Mills is 832 out of which 281 were employed in machine No. 2 and closure of machine No. 2 would result in the retrenchment of these 281 workmen. The petitioner Company, therefore, made the application dated 8th November 1985 (Annex. A) to the State Government giving the material particulars together with the number of workmen likely to be affected and the reasons for seeking permission to close machine No. 2 resulting in the retrenchment of 281 workmen employed therein. As earlier stated, this application has been rejected by the State Government for the reasons given in the impugned order Annex-G dated 3rd January 1986 and Annex-J dated 4th January 1986.

It would be useful at this stage to set out the statutory provisions on the basis of which this petition is to be decided. The only relevant statutory provisions are Sections 2(cc) and 2(ka) and Sections 25N and 25O of the Industrial Disputes Act, 1947, as they exist after amendment of the principal Act by Act No. 46 of 1982 which has been brought into force on 28th August 1984:

Section 2(cc) "closure" means the permanent closing down of a place of employment or part thereof; Section 2(ka) "industrial establishment or undertaking" means an establishment or undertaking in which any industry is carried on:

Provided that where several activities are carried on in an establishment or undertaking and only one or some of such activities is or are an industry or

industries, then.

(a) If any unit of such establishment or undertaking carrying on any activity, being an industry, is severable from the other unit or units of such establishment or undertaking, such unit shall be deemed to be a separate industrial establishment or undertaking;

(b) If the predominant activity or each of the predominant activities carried on in such establishment or undertaking or any unit thereof is an industry and the other activity or each of the other activities carried on in such establishment or undertaking or unit thereof is not severable from and is, for the purpose of carrying on, or siding the carrying on of, such predominant activity or activities, the entire establishment or undertaking or, as the case may be, unit thereof shall be deemed to be an industrial establishment or undertaking.

Section 25N. Conditions precedent to retrenchment of workmen-(1) No workmen employed in any industrial establishment to which this chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

(a) the workmen has been given three months" notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by the Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under Sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workman concerned in the prescribed manner.

(3) Where an application for permission under Sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under Sub-section (i) and the appropriate Government or the specified authority does not communicate the prior granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the

expiration of the said period of sixty days.

(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall subject to provision of Sub-section (6) be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under Sub-section (3) or refer the matter or, as the case may be, cause it to be referred to Tribunal for adjudication.

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under Sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workmen and the workman shall be entitled to all benefits under any law for the time being in force as if no notice had been given to him. Section 250. Procedure for closing down an undertaking (1) An employer who intends to close down an undertaking of an industrial establishment to which this chapter applies shall in the prescribed manner, apply for prior permission at least ninety days before the date on which the intended closure is to become effective to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner:

Provided that nothing in this Sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads canals, dams or for other construction work.

(2) Where an application for permission has been made under Sub-section (1), the appropriate Government after making such enquiry as it thinks fit and after giving reasonable opportunity of being heard to the employer the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under Sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which" such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period, of sixty] days.

(4) An order of the appropriate Government granting or refusing to grant

permission shall subject to the provisions of Sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The appropriate Government may, either on its own motion or on the application made by the employer or any workman, ; review its order granting or refusing to grant permission under Sub-section (2) or refer the matter to a Tribunal for adjudication.

Provided that where a reference has been made to a Tribunal under this sub-section, : it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under Sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of Sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under Sub-section (2) or where permission for closure is deemed to be granted under Sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

The point of constitutional validity of Section 25 and Section 250, as they now exist in the Industrial Disputes Act on its amendment by the Central Act No. 46 of 1982, has been raised in the petition but it has not been urged before us at the hearing stating that even though the point is not given up by the petitioners, yet no decision thereon of this Court is invited because this point is pending decision in the Supreme Court in a matter involving the petitioners in the Supreme Court. It is, therefore, not necessary for us to go into this question and mention of this fact is being made in the order at the request of the counsel for the petitioners. The only question for consideration by us is whether the impugned orders Annexures G and J disclose any error apparent on the face of the record to permit interference in our writ jurisdictions. Learned Counsel for the petitioners, Shri A.S. Bobde, contended that the petitioners' case is primarily of retrenchment seeking permission u/s 25N of the Industrial Disputes Act and the requirements of that provision being satisfied, the permission should have been given. He also contends that even if it be a case of closure attracting

Section 250 of that Act, the requirements of that provision also have been satisfied by the petitioners. It was urged that the reasons given by the petitioners for effecting retrenchment/closure are genuine and adequate and in the interest of the workers of the industrial establishment or undertaking apart from the same being also in public interest. Permission has been refused by the Government on extraneous grounds or for non-existent reasons and therefore the opinion formed by the Government resulting in refusal of permission is vitiated. He also argued that by the impugned orders the Government has neither granted nor refused permission but disposed of the application merely by saying that it was premature. In reply Shri Saxena, the learned Deputy Advocate General, pointed out on the basis of facts beyond controversy that the reasons given in the impugned orders do not disclose any error apparent on the face of the record and they were all relevant to show that refusal of permission was primarily on account of the fact that the petitioners had not shown adequate reasons for effecting retrenchment/closure even assuming the same to be genuine. It is also pointed out that the alternative remedy provided by Sub-section (5) of Section 250 and Sub-section (6) of Section 25N was available to the petitioners wherein a detailed enquiry even on facts could have been made and for this reason also no interference in a writ petition was called for. The other counsel appearing for the workers' unions also opposed the petition adopting the arguments of the learned Deputy Advocate General.

Having heard both sides, we are satisfied that this petition must fail since no ground has been made out to disclose any error apparent on the face of the record which is the only basis on which the impugned orders have been assailed before us.

Some more facts may now be mentioned in the background of which it would be more appropriate to examine the adequacy of the reasons stated by the petitioners for seeking the permission and the reasons given by the State Government in its orders to refuse to grant such permission. These facts are beyond controversy. The petitioner Company in its Board Mills at Bhopal had been earning profits throughout from the inception in 1938 to 1981. It was only in the Board Mills of the petitioner Company that during the years 1982, 1983 and 1984 it suffered losses even though the petitioner Company in spite of it earned profits as a whole and was able to issue dividend to its shareholders. The Company's balance-sheets show that the losses even in the Board Mills result on account of the depreciation which exceeds the profits earned in the Board Mills. One of the reasons given by the petitioner company for suffering losses in its Board Mills at Bhopal is the non-availability of the concessional rate of excise duty on account of its production being clubbed with the production of its other unit at Rayagada in district Koraput (Orissa). However, this advantage of not getting the concessional rate of excise duty was suffered by the Company right from 1977 and yet till 1981 it could earn profits in the Board Mills so that the rate of excise duty is obviously not a predominant factor for its losses in the Board Mills at Bhopal. An agreement dated 15th May 1985 was entered into

between the petitioner and its workmen for rationalisation of the machines etc. in an attempt to prevent the loss in the Board Mills. Thereafter the application was made on 8th November 1985 for permission to close machine No. 2 and to retrench the 281 workmen employed therein.

Sub-section (2) of Section 25O and Sub-section (3) of Section 25N both require reasons to be recorded in writing while granting or refusing to grant the permission sought by the employer to effect the closure/retrenchment and lay down that this conclusion is to be reached having regard to the genuineness and adequacy of the reasons stated by the employer and all other relevant factors. In addition, Section 25O(2) requires that regard should be had to interest of the general public while Section 25N requires that regard must be had to the interests of the workmen. It is only to this extent that there is difference in the two provisions with regard to the factors to be taken into account while reaching the decision. This means that in Section 25O(2) the wider interests of general public are also to be taken into account while in Section 25N the interests of workmen are to be considered. Apart from this, the factors to be taken into account for making the decision are common. In the present case, the State Government has refused to grant permission under both these provisions for the same reasons. Learned Counsel for the petitioner pointed out that there is some difference between the requirements of these two provisions as already indicated and, therefore, it was contended that the refusal to grant permission u/s 25N for retrenchment was invalid as it could be given for lesser reasons is indicated by us hereafter, this difference in the two provisions is not material in the present case since the common requirement of the two provisions of adequacy of reasons stated by the employer for closure/retrenchment is found by the State Government to have been not shown in order to justify grant of such permission.

We shall now refer to the reasons given by the State Government in its order Annexure-G dated 3rd January 1986 for refusing permission u/s 25O which are also the reasons for refusing permission u/s 25N as mentioned in the State Government's order Annexure-J dated 4th January 1986. The main ground for seeking permission was stated by the petitioners as its continuing losses in the Board Mills. The balance-sheets of the petitioner Company for the years 1980 to 1984 show that except for the year 1983 in which the petitioner Company as a whole suffered a loss of Rs. 93.66 lacs, the petitioner Company as a whole earned profits for the years 1980, 1981, 1982 and 1984 to the extent of Rs. 319.20 lacs, 387.28 lacs, 263.89 lacs and 172.08 lacs after accounting for its loss in the Board Mills in W82, 1983 and 1984 respectively of 17.54 lacs, 81.81 lacs and 86.96 lacs. Thus, the overall financial position of the Company continued to remain sound and economically viable which is also evident from the fact that dividend was paid by the petitioner Company to its shareholders at the rate of 20% for all the years from 1980 to 1984. The reserves of the Company have also steadily increased from 777.01 lacs in 1975 to 1476.55 lacs in 1980, 1769.73 lacs in 1981, 1996.05 lacs in 1982, 1795.49 lacs in 1983 and 1860.66 lacs in 1984. Even the Board Mills Division of the petitioner Company by itself had been

earning profits continuously up to the year 1981. For this reason the loss shown in the Board Mills Division in 1982, 1983 and 1984 was not treated to be of such consequence at this stage as to be an adequate ground for closure/retrenchment. It is in this background of the overall financial position and economic viability of the petitioner Company and the comparatively insignificant impact on it of the recent losses in the Board Mills Division that further reasons are mentioned in the order to show that the main ground of continuing losses stated by the employer Company for seeking permission to effect closure/retrenchment do not constitute adequate grounds for grant of such permission.

The further reasons given in the order of the State Government are these. It mentions that for making all the units of the petitioner Company economically viable the funds have been diverted from one unit to another and, therefore this could be done for the viability of the Board Mills Division as well to counter balance the losses suffered in that Division. Learned Counsel for the petitioner stated with reference to the balance sheets of the petitioner Company that under the head of current liabilities in the balance sheets as on 31st December 1982, 31st December 1983 and 31st December 1984 the amounts drawn from other units amounting to Rs. 1,26,19,955.93, Rs. 39,10,563.65 and Rs. 1.81,66,598.27 have been shown at pages 101, 104 and 106 of the paper book so that this is a non-existent or incorrect reason relied on in the order. In our opinion, it is not so. This reason has to be read in the background of the over-all economic viability of the petitioner Company as mentioned earlier in the order to indicate that the Board Mills Division is not shown to be economically not viable merely due to the losses suffered in it from 1982 to 1984 when the petitioner Company earned overall profits in spite of these losses except in the year 1983. This reason cannot, therefore, be called a non-existent or extraneous factor for the decision.

The next reason given in the order relates to the higher rate of excise duty required to be paid by the petitioner Company. The order says that no doubt the petitioner Company has failed to get the benefit of the concessional rate prescribed for payment of excise duty in spite of its attempt to procure that benefit but that cannot be a major cause contributing to the losses during the last few years. The fact that the petitioner Company has been paying excise duty at higher rate from 1976 and yet earned profits up to the year 1981 on its own showing is sufficient to indicate that even this reason given by the State Government cannot be called extraneous.

The next reason given in the order is that the social and moral responsibility of the petitioner Company is to exhaust all other avenues of improving the economic viability before resorting to closure/retrenchment in order to prevent unemployment of a larger number of workmen. No doubt, this too is a relevant factor and not an extraneous consideration in making such a decision whether in the context of closure u/s 25O or retrenchment u/s 25N since it relates to the factor of public interests as well as interests of the workmen as a whole. It is

true that this cannot be a decisive factor and if the continuance of the industrial undertaking is shown to be economically not viable, then even though closure/ retrenchment results in the workmen being rendered unemployed, yet a case may be made out for grant of such permission but this factor is relevant and has to be given due weight in reaching the conclusion. For the same reason the possibility of preventing this situation by resorting to other avenues to improve the economic viability of the undertaking is a relevant circumstance while making the decision to grant or refuse such permission. In this context the order says in paras 11 and 12:

11. To put it in nutshell, while it may not be just and fair to compel the employer to run its industrial undertaking for an indefinite period, if it is incurring losses, still keeping the interests of the workmen in mind the State Government would like to urge the employer to explore all possibilities of improving the economic situation of its undertaking before it finally goes for the closure.

It may also be mentioned here that an agreement was signed between the employer and the workmen on May 15, 1985 regarding various measures to be taken by both the parties to improve the economic viability of the undertaking Clause 17 of this agreement reads as follows:

It is hereby agreed by and between the parties that in order to meet the viability of the Union, the Management's proposals of rationalisation of machine and manpower at the Unit, shall be put up to the Union within a month of resumption of normal production at the Mills and that the Union shall consider these proposals in ail sincerity and assure the Management in implementation of the same. For this purpose the Management shall offer voluntary separation scheme to the workmen.

Thus, this reason given in the order is that the petitioner Company should attempt to implement its offer given in Clause 17 of the Agreement dated 15th May 1985 quoted above before reaching the conclusion that the closure/ retrenchment for which it has sought permission is the only avenue open to it. It was shown to us by learned Counsel for the petitioner that some proposals of the management for rationalisation of the machines were found to be impractical. It was, therefore, urged that this attempt had already been made by the management. In our opinion, Clause 17 of the agreement reproduced above does not speak merely of an attempt to rationalise the machines but certain other things which are mentioned therein. This agreement was reached on 15th May 1985 while the application was made by the petitioner Company for permission to the State Government on 8th November 1985 within a few months thereof and it is not shown from die material produced that the petitioner Company had done everything which was required to be done by it under this agreement which was made to explore avenues for preventing losses in the Board Mills Division. This reason cannot also, therefore, be extraneous or non-existent. It must be added that possible avenues to prevent losses in the Board Mills Division when continuing losses therein is in substance the reason stated by

the employer for seeking such permission, is a relevant factor in granting or refusing of such permission.

The next reason given in the order is that the employer has failed to establish that the losses incurred in the Board Mills Division can be avoided by closing down machine No. 2. Even if this was not a very weighty reason, it cannot be said to be a wholly extraneous reason when losses in the Board Mills Division is essentially the ground stated by the employer for closing machine No. 2.

The last reason given in the order is the difficulty in identifying the workmen to be retrenched on account of the proposed closure. It has been pointed out that there are some common workmen working in all the three machines in the Board Mills Division and, therefore, there will be difficulty in identifying those employed only in connection with machine No. 2 for the purpose of retrenchment. It was urged by learned Counsel for the petitioner that detailed particulars of each workmen had been given to show that out of 281 workmen who had to be retrenched, 144 workmen were directly working on machine No. 2 while 81 workmen who were working in all the three machines would be rendered surplus if machine No. 2 was closed so as to make the total of 225 workmen in addition to 41 staff workmen and 15 sub-staff workmen constituting the final total 281 workmen to be retrenched. On behalf of the respondents these figures were disputed and it was urged that a larger number of workmen were to be affected by closure of machine No. 2. In our opinion this question need not detain us since this last reason given in the order cannot be called wholly extraneous and it merely refers to the disputed question of fact on this point between the parties. No doubt, an enquiry could be made for identifying the workmen to be retrenched if a case for grant of permission was made out and it is obvious that this factor is not really a reason given in the order for refusing the permission sought by the petitioner Company. This is also evident from the fact that the conclusion reached by the State Government that a case for grant of permission sought by the petitioner Company is not made, out was stated prior to this at the end of para 14 of the order as follows:

Therefore, the State Government is of the opinion that the employer can explore these possibilities further before it contemplates the closure of the undertaking as the sole remedy of the malady of the alleged losses.

This fact is mentioned in para 16 thereafter.

Thereafter the order suggests certain measures to be adopted by the employer before going in for closure/retrenchment. It is not necessary for us to deal with them at any length since these suggestions given in the order are not reasons for refusal of the permission but really recommendations of the measures which can be adopted to prevent losses in the Board Mills Division when the Company as a whole is continuing to make sufficient profit. At the end of the order it says that the application of the petitioner Company is premature and cannot be entertained. This really means that the employer had applied for permission

before exhausting all the possible avenues to prevent losses on account of which it is premature and cannot, therefore, be allowed by grant of permission. It does not mean that no final decision has been made on the petitioner Company's application.

We have considered all the reasons given in the order of the State Government for refusing permission to effect closure/retrenchment. It has also been shown that none of these reasons is extraneous, irrelevant or non-existent. All these reasons are common for permission u/s 25O as well as Section 25N since they relate to the common content of both these statutory provisions indicated earlier. The conclusion of the State Government, therefore, is that the reasons stated by the employer are not adequate for granting permission to effect either closure u/s 25O or retrenchment alone u/s 25N and the interests of the general public and/or interests of the workmen require that the available avenues to prevent losses in the Board Mills Division, one of which is in the agreement dated 15th May 1985, should be first exhausted and then only such permission should be sought by the petitioner Company if continuance of losses cannot be prevented. The inevitable consequence of rendering a large number of workmen jobless apart from affecting production of the commodity manufactured by the industrial undertaking is obviously taken as a relevant factor in making the decision. In short, the reason given by the State Government for refusing such permission is that the petitioner Company has failed to show adequate reasons for grant of such permission. The scope of enquiry in a writ petition is limited to seeing whether the ultimate opinion formed by the State Government is vitiated on account of ignoring any relevant factors or taking into account irrelevant, extraneous or non-existent factors so as to disclose an error apparent on the face of the record. In our writ jurisdiction we cannot examine the correctness of the conclusion relating to adequacy of the reasons unless the finding thereon is vitiated by an error apparent on the face of the record, as already indicated. No such error which can be corrected by us in our writ jurisdiction is made out in the impugned orders passed by the State Government. Accordingly, no case for interference therewith in our writ jurisdiction has been made out. We may, however, add that the remedy under Sub-section (5) of Section 25O and Sub-section (6) of Section 25N of review by the State Government or reference of the matter to Tribunal for adjudication gives a wider scope for interference which also indicates that there is no occasion for examining the validity of the Government's order except to this limited extent in a writ petition. We may add that the scrutiny of the impugned orders by us being limited to this extent it would be open to the petitioners to resort to the remedy of review by the Government or reference to the Tribunal for adjudication notwithstanding the dismissal of this petition.

Consequently, the petition fails and is dismissed with costs. Counsel's fee Rs. 500/- if, certified. Security amount deposited by the petitioners be adjusted towards costs.