

## **Bijli Cotton Mills Pvt. Ltd. And Anr. vs Union Of India (Uoi) And Ors. on 5 September, 1986**

**Equivalent citations: AIR1987SC244, 1986(2)SCALE393, (1986)4SCC184, 1986(2)UJ594(SC), AIR 1987 SUPREME COURT 244, (1986) JT 362 (SC), 1986 2 UJ (SC) 594, 1986 (4) SCC 184, (1986) 3 SUPREME 482, (1987) 62 COMCAS 129**

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**Bench: M.M. Dutt, O. Chinnappa Reddy**

### **JUDGMENT**

O. Chinnappa Reddy, J.

1. The principal submission of Mr. G.L. Sanghi, learned Counsel for the petitioners was that the undertaking was not a 'Sick Textile Undertaking' within the meaning of Section 2(b)(ii) of the Sick Textile Undertakings (Taking Over Management) Act, 1972 as it had not remained closed for a period of not less than three months immediately before the appointed day. In support of this submission learned Counsel for the petitioners relied on two letters written by the petitioners, one addressed to the Inspector of factories and the other to the 'Tehsildar, in which it was stated that the Mill had started working partially with effect from January 12, 1972. The 1st letter is dated January 14th, 1972 and the 2nd letter is dated January 20th, 1972. Whatever effort may have been made to start the Mill partially, it is clear from the other material available in the case that the petitioner did not succeed in restarting the Mill. The letter dated September 22, 1972 addressed by the petitioner to the Central Provident Fund Commissioner shows that the Mill was closed since 13th May, 1970 and the petitioners wanted to restart it. The averments in paragraph 2 sub-paragraphs 13, 14, 15 and 16 also show that some effort was made in January, 1972 to restart the Mill partially but that effort was not successful. In sub-paragraph 16, it is mentioned that an amount of Rs. 1,39,982.00 was spent by the petitioners towards wages and salaries for the month of October, November and December, 1971 and January and February, 1972. Nothing is said as to what was done thereafter, whether any amount was spent towards wages and salaries subsequent to February 1972. It is clear from these statements that the Mill had not resumed working by the appointed day and that it had been closed for more than three months before that date.

2. The other submission made by learned Counsel for the petitioners was that a considerable amount had been expended by installing new machinery and that the Mill was in a sound working condition. If it had to be closed for some time, it was due to consistent power breakdown and non-supply of electricity by the Electricity Board and not because the Mill was sick. But the fact

remains that the Mill was closed from May 1970 onwards and the undertaking had suffered continuous losses. We see no merit in this writ petition which is accordingly dismissed. There will be no order as to costs.