

ARPIT R. SINGHVI
B.Com. LL.B (Hons.)
ADVOCATE, GUJARAT HIGH COURT

6, Saket Bungalows, Near Takshashila Towers, Premchandnagar Road, Vastrapur,
Ahmedabad- 380015. (M) 9173762275

Date: 25.05.2020

To
The Registrar,
High Court of Gujarat,
Sola,
Ahmedabad.

Sub: Note pertaining to circulation of the Special Civil Application as there is urgency in the matter

Dear Sir,

It is submitted that by way of the present petition, the Petitioner seeks appropriate directions to Respondent No. 1 to waive the fixed minimum demand electricity charges for the month of May, 2020 and June, 2020. It is submitted that the Distribution Companies are demanding fixed demand electricity charges for the month of May, 2020 despite lock-down in force and no business activities having been resumed. It is submitted that the fixed demand electricity charges is exorbitant and the Petitioner association comprising of MSME's is unable to bear the high cost of fixed demand electricity charges. It is submitted that the Petitioner association has a manpower of more than 10,000 labourers and if the minimum fixed demand charges are not waived, then the MSME's will be constrained to shut operations resulting in loss of livelihood for more than 10,000 labourers. Further, the Petitioner association has made numerous representations to the concerned authorities to waive the fixed demand electricity charges, however, the same has not been replied to yet by the concerned authorities. It is submitted that due date for payment of the fixed minimum demand charges is 30.05.2020 and hence it is requested to circulate the matter before the Hon'ble Court as there is urgency in the matter.

Thanking You,

Yours faithfully,

Arpit R. Singhvi
Advocate

- 1 -

**IN THE HIGH COURT OF GUJARAT AT
AHMEDABAD**

SPECIAL CIVIL APPLICATION NO. OF 2020

Gujarat Re-Rolling Mills Association

... Petitioner

VERSUS

State of Gujarat & Ors.

... Respondents

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IN THE HIGH COURT OF GUJARAT AT
AHMEDABAD

SPECIAL CIVIL APPLICATION NO. OF 2020

Gujarat Re-Rolling Mills Association

... Petitioner

VERSUS

State of Gujarat & Ors.

... Respondents

SYNOPSIS WITH LIST OF DATES & EVENTS

By way of the present petition, the Petitioner invokes the extraordinary jurisdiction vested in the Hon'ble Court under Article 226 of the Constitution of India and thereby seeks appropriate directions to Respondent No. 1 to waive the fixed minimum demand electricity charges for the month of May, 2020 and June, 2020.

The Petitioner is a Non-Profit Organization registered under Societies Registration Act, 1860. It is stated and submitted that currently the

(B)

	Petitioner is having over 50 steel Re-Rolling units as its active member all over Gujarat. It is submitted that the Petitioner's main objective is to promote growth, advancement and professionalism within the steel industry in Gujarat
1963	Petitioner was incorporated in the year 1963 with the aim and objective of promoting growth, advancement and professionalism within the Steel re-rolling industry in Gujarat as well as creating maximum employment opportunities in re-rolling sector and downstream industries in Gujarat and safe-guarding the interests of members

C

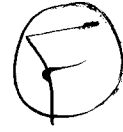
24.03.2020	In view of the exponential spread of COVID-19 in the country, the Ministry of Home Affairs declared a lock-down in the Country for a period of 21 days with effect from 25.03.2020 and issued various guidelines along with the order dated 24.03.2020. It is stated and submitted that the business activities of the Petitioner came to a halt as a result of the aforesaid order
14.04.2020	The Ministry of Home Affairs vide its order dated 14.04.2020 increased the period of lock-down upto 03.05.2020 and issued various guidelines. It is submitted that the business activities of the



	Petitioner continued to remain suspended in view of the aforesaid order.
01.05.2020	That owing to the continuous and rapid spread of COVID-19, the Ministry of Home Affairs vide its order dated 01.05.2020 further increased the lock-down for a period of 2 weeks with effect from 04.05.2020 and also issued guidelines along with the said order. It is stated and submitted that the business activities of the Petitioner was further suspended during the said period.
17.05.2020	That vide order dated 17.05.2020 issued by the Ministry of Home Affairs, lock-down was further

(E)

	extended till 31.05.2020 with effect from 18.05.2020. It is submitted that fresh guidelines were issued along with order dated 17.05.2020.
	It is submitted that although restrictions were relaxed, the business activities of the Petitioner could not be resumed owing to the prevalent migrant labour crises and shortage of labour.
27.03.2020	Respondent No. 1 passed resolution <i>inter alia</i> ordering that the industries whose business activities were suspended due to lock-down, shall be exempted from paying fixed minimum demand electricity



	charges and only actual consumption charges were payable by the said industries.
30.03.2020	Resolution passed by Respondent No. 1 clarifying resolution dated 27.03.2020 to the effect that the benefit of the resolution dated 27.03.2020 shall be extended by all the distribution companies of the State to all the industries whose business activities were suspended due to lock-down
	That due to the extension of the lock-down even in the month of May, 2020 and migration of essential labour, the business activities of the Petitioner continued to



	remain suspended and inactive. It is submitted that though the business activities of the Petitioner association continued to remain suspended and inactive, Respondent No. 3 to 6 have started demanding fixed minimum demand electricity charges for the month of May, 2020 from the members of the Petitioner Association.
	It is stated and submitted that the member industries in the Petitioner Association are all MSME's and are facing unprecedented economic and financial crises at the moment. It is further stated and submitted that none of the industries in

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(F)

	the Petitioner association have been able to effectively resume operations and hence are not in a position to pay the fixed minimum demand electricity charges as demanded by Respondent No. 3 to 6
	It is submitted that the members of the Petitioner association are already at the brink of closure and any further economic hardship will result not only in the closure of the members of Petitioner association but will also result in the loss of livelihood of large number of laborers who are dependent on the said member industries for their survival and

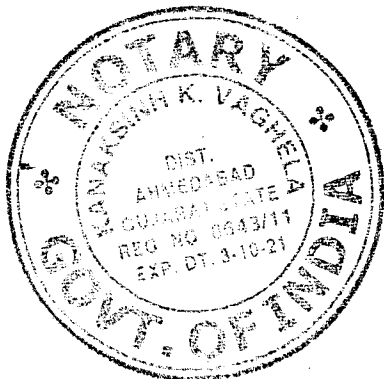


	livelihood.
	Hence, the present petition warranting kind interference of this Hon'ble Court.

①

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
DIST: AHMEDABAD

SPECIAL CIVIL APPLICATION NO. OF 2020



In the matter under Articles
14, 19(1)(g) and 21 of the
Constitution of India;

AND

In the matter under Article
226 of the Constitution of
India;

AND

In the matter under
Electricity Act, 2003 and
regulations framed
thereunder;

AND

In the matter between:

Gujarat Re-Rolling Mills Association

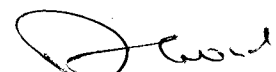
Through its President, Mr. D.K. Goyal,

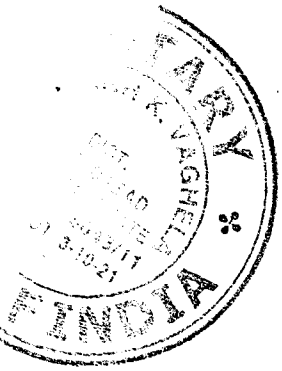
... Petitioner

VERSUS

1. State of Gujarat

For, Gujarat Re-Rolling Mills Association


President



(2)

Notice to be served through the
Secretary, Energy & Petrochemicals
Department, Sachivalaya,
Gandhinagar

2. **Gujarat Urja Vikas Nigam Ltd.**

Notice to be served through the
Deputy Engineer,
Having its address at:
Sardar Patel Vidyut Bhavan,
Race Course,
Vadodara - 390007

3. **Uttar Gujarat Vij Company Ltd.**

Notice to be served through the
Deputy Engineer,
Having its address at:
Visnagar Road,
Mehsana - 384 001

4. **Dakshin Gujarat Vij Company Ltd.**

Notice to be served through the
Deputy Engineer,
Having its address at:
Nana varachha Road, Nr. Kapodra Char
Rasta, Surat-395006

5. **Madhya Gujarat Vij Company Ltd.**

Notice to be served through the
Deputy Engineer,
Having its address at:
Sardar Patel Vidyut Bhavan,
Race Course,
Vadodara - 390007

For, Gujarat Re-Rolling Mills Association


President



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6. **Paschim Gujarat Vij Company Ltd.**

Notice to be served through the
Deputy Engineer,

Having its address at:

Paschim Gujarat Vij Seva Sadan"

Off. Nana Mava Main Road, Laxminagar,
Rajkot-360004

... Respondents

To,

The Hon'ble the Chief
Justice & other Hon'ble
Judges of the High Court
of Gujarat At Ahmedabad.

The petitioner abovenamed:

MOST RESPECTFULLY SHEWETH THAT:

- (1) The Petitioner is an association of
Re-Rolling mills and the present
petition is filed through its
President, who is a national and
law abiding citizen of India and is
entitled to all the fundamental
rights enshrined under the
Constitution of India. Respondent
No. 3 to 6 are power distribution

For, Gujarat Re-Rolling Mills Association


President

④

(2) By way of the present petition, the Petitioner invokes the extraordinary jurisdiction vested in the Hon'ble Court under Article 226 of the Constitution of India and thereby seeks appropriate directions to Respondent No. 1 to waive the fixed minimum demand electricity charges for the month of May, 2020 and June, 2020.

(3) The brief facts giving rise to the filing of the present petition are briefly as under:

(4) It is respectfully stated and submitted that the Petitioner is a Non-Profit Organization registered under Societies Registration Act, 1860. It is stated and submitted that currently the Petitioner is

For, Gujarat Re-Rolling Mills Association

D. Cassin
President



(5)

having over 50 steel Re-Rolling units as its active member all over Gujarat. It is submitted that the Petitioner's main objective is to promote growth, advancement and professionalism within the steel industry in Gujarat. Further, the Petitioner is recognized as one of the leading organizations representing Gujarat's business community and the Indian Iron & Steel Industry.

- (5) It is stated and submitted that the Petitioner was incorporated in the year 1963 with the aim and objective of promoting growth, advancement and professionalism within the Steel re-rolling industry in Gujarat as well as creating maximum employment opportunities in re-rolling sector and downstream industries in Gujarat and safe-guarding the interests of members. Annexed

For, Gujarat Re-Rolling Mills Association

President

⑥

hereto and marked as **Annexure A** is a copy of the list of members of the Petitioner's association.

- (6) It is respectfully stated and submitted that in view of the exponential spread of COVID-19 in the country, the Ministry of Home Affairs vide its order dated 24.03.2020 declared a lock-down in the Country for a period of 21 days with effect from 25.03.2020 and issued various guidelines along with the order dated 24.03.2020. It is stated and submitted that the business activities of the Petitioner came to a halt as a result of the aforesaid order. A copy of the order dated 24.03.2020 issued by the Ministry of Home Affairs as well as guidelines issued thereto are annexed hereto and marked as **Annexure B (Colly)**.

For, Gujarat Re-Rolling Mills Association



President

(7)

(7) It is stated and submitted that the lock-down period was further extended upto a period of 03.05.2020 to prevent the rapid outbreak of COVID-19. It is submitted that the Ministry of Home Affairs vide its order dated 14.04.2020 increased the period of lock-down upto 03.05.2020 and issued various guidelines. It is submitted that the business activities of the Petitioner continued to remain suspended in view of the aforesaid order. A copy of the order dated 14.04.2020 issued by the Ministry of Home Affairs as well as guidelines issued thereto are annexed hereto and marked as **Annexure C (Colly)**.

(8) It is respectfully stated and submitted that owing to the continuous and rapid spread of COVID-19, the Ministry of Home Affairs vide its order dated

For, Gujarat Re-Rolling Mills Association


President

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01.05.2020 further increased the lock-down for a period of 2 weeks with effect from 04.05.2020 and also issued guidelines along with the said order. It is stated and submitted that the business activities of the Petitioner was further suspended during the said period. A copy of the order dated 01.05.2020 issued by the Ministry of Home Affairs along with the guidelines is annexed hereto and marked as **Annexure D (Colly)**.

- (9) It is further stated and submitted that vide order dated 17.05.2020 issued by the Ministry of Home Affairs, lock-down was further extended till 31.05.2020 with effect from 18.05.2020. It is submitted that fresh guidelines were issued along with order dated 17.05.2020. It is submitted that although restrictions were relaxed, the business activities of the

For, Gujarat Re-Rolling Mills Association

President

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Petitioner could not be resumed owing to the prevalent migrant labour crises and shortage of labour. A copy of the order dated 17.05.2020 issued by the Ministry of Home Affairs along with guidelines are annexed hereto and marked as **Annexure E (Colly)**.

- (10) It is pertinent to note that during the months of March, 2020 and April, 2020, when the lock-down was in force and operation, Respondent No. 1 vide its resolution dated 27.03.2020 *inter alia* ordered that the industries whose business activities were suspended due to lock-down, shall be exempted from paying fixed minimum demand electricity charges and only actual consumption charges were payable by the said industries. Further, it is stated and submitted that a further resolution dated 30.03.2020 was passed by Respondent No. 1

For, Gujarat Re-Rolling Mills Association



President

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clarifying resolution dated 27.03.2020 to the effect that the benefit of the resolution dated 27.03.2020 shall be extended by all the distribution companies of the State to all the industries whose business activities were suspended due to lock-down. A copy of the resolution dated 27.03.2020 as well as resolution dated 30.03.2020 are annexed hereto and marked as **Annexure F (Colly)**.

(11) It is respectfully stated and submitted that as due to the extension of the lock-down even in the month of May, 2020 and migration of essential labour, the business activities of the Petitioner continued to remain suspended and inactive. It is submitted that though the business activities of the Petitioner association continued to remain suspended and inactive, Respondent

For, Gujarat Re-Rolling Mills Association

A handwritten signature in black ink, likely belonging to the President of the Gujarat Re-Rolling Mills Association.

President

(11)



No. 3 to 6 have started demanding fixed minimum demand electricity charges for the month of May, 2020 from the members of the Petitioner Association. It is submitted that the industries in the Petitioner association are MSME's and none its member industries have been able to resume proper business operations even after relaxations in the restrictions in effect from 18.05.2020.

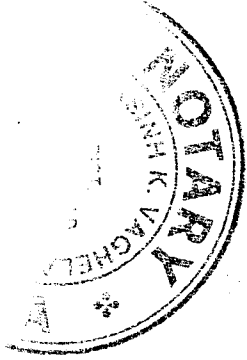
- (12) It is stated and submitted that the member industries in the Petitioner Association are all MSME's and are facing unprecedented economic and financial crises at the moment. It is further stated and submitted that none of the industries in the Petitioner association have been able to effectively resume operations and hence are not in a position to pay the fixed minimum demand electricity charges as

For, Gujarat Re-Rolling Mills Association



President

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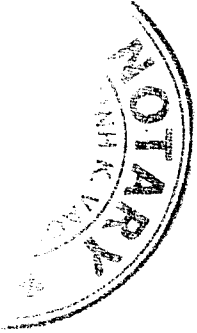
demanded by Respondent No. 3 to 6. It is submitted that the fixed electricity charges as claimed by Respondent No. 3 to 6 are exorbitant and the members of the Petitioner-association, comprising of MSME industries, are not in a position to pay the said fixed minimum demand electricity charges. Copies of the sample electricity bills due for the month of May, 2020 raised upon a few member industries of the Petitioner association are annexed hereto and marked as **Annexure G (Colly)**.

- (13) It is stated and submitted that if the fixed minimum demand electricity charges are not suspended for atleast the months of May, 2020 as well as June, 2020, the members of the Petitioner association will be at a grave risk of shutting their operations. It is submitted that the members of the

For, Gujarat Re-Rolling Mills Association


President

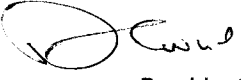
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Petitioner association are already at the brink of closure and any further economic hardship will result not only in the closure of the members of Petitioner association but will also result in the loss of livelihood of large number of laborers who are dependent on the said member industries for their survival and livelihood.

- (14) It is stated and submitted that as the fixed minimum demand electricity charges for the month of May, 2020 were not waived, the Petitioner vide its letter dated 07.05.2020 and 18.05.2020 made representations to Respondent No. 1 as well as officers of Respondent No. 1 to waive the fixed minimum demand electricity charges for the months of May, 2020 and June, 2020. It is submitted that despite such representations there has been no

For, Gujarat Re-Rolling Mills Association


President

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reply by Respondent No. 1 or its officers till date. Copies of the Petitioner's representations dated 07.05.2020 as well as 18.05.2020 are annexed hereto and marked as **Annexure H (Colly)**.

(15) It is stated and submitted that as the due date for the payment of the electricity bill for the month of May, 2020 (being May, 30, 2020) was approaching, the Petitioner issued another representation dated 22.05.2020 to Respondent No. 1 to waive the fixed minimum demand electricity charges for the months of May, 2020 and June, 2020. A copy of the said representation dated 22.05.2020 is annexed hereto and marked as **Annexure I**. It is submitted that the said representation dated 22.05.2020 has not been replied till date by Respondent No. 1.

For, Gujarat Re-Rolling Mills Association


President

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(16) It is stated and submitted that Ministry of Power by its order dated 28.03.2020 has *inter alia* directed the Central Electricity Regulatory Commission to provide a moratorium of three months to Discoms to make payments to generating companies and the transmission licensees and not to levy penal rates of late payment surcharge. Further, State Governments were also requested to issue similar directions to State Electricity Regulatory Commissions. A copy of the said order dated 28.03.2020 by the Ministry of Power is annexed hereto and marked as **Annexure J.**

(17) It is stated and submitted in accordance with the order dated 28.03.2020, the Central Electricity Regulatory Commission vide its order dated 03.04.2020 in SUO MOTU PETITION NO.6/SM/2020, *inter alia*

For, Gujarat Re-Rolling Mills Association

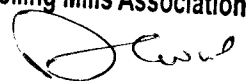
President

(16)

ordered that the Commission in exercise of its powers under Regulation 76 of the 2019 Tariff Regulations relaxes the provisions of Regulation 59 of 2019 Tariff Regulations to provide that if any delayed payment by the distribution companies to the generating companies and inter-State Transmission licensees beyond 45 days from the date of the presentation of the bills falls between 24.03.2020 and 30.06.2020, the concerned distribution companies shall make the payment with LPS at the reduced rate of 12% per annum that translates into 1% per month. A copy of the said order dated 03.04.2020 is annexed hereto and marked as **Annexure K.**

- (18) It is stated and submitted that if no waiver of fixed minimum demand electricity charges is granted to Petitioner-member industries, the

For, Gujarat Re-Rolling Mills Association



President

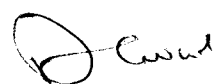
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industries of the Petitioner association will be exposed to the high risk of credit default and subsequent closure.

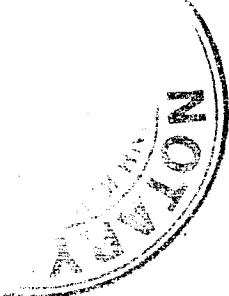
(19) It is stated and submitted that as the Petitioner's business activities have come to a sudden halt owing to Force Majeure conditions, the minimum fixed demand electricity charges as contemplated in the Power Purchase Agreements shall not be applicable in the present circumstances. A copy of the Power Purchase Agreement between one Friend Comcast Ltd., being one of the member of Petitioner association, and Respondent No. 3 is annexed here and marked as **Annexure L**.

(20) It is submitted that the Petitioner is facing tremendous financial loss as a result of suspending its operations and is not in a position

For, Gujarat Re-Rolling Mills Association


President

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to pay the minimum demand fixed electricity charges owing to the restrictions in place due to COVID-19. It is submitted that although the Petitioner is entitled to carry on free trade and business as per Article 19(1)(g) of the Constitution of India, however, due to the restrictions in place on account of COVID-19, the Petitioner is put to immense financial difficulties and operational loss.

(21) It is submitted that owing to the restrictions imposed due to COVID-19, the business operations of the Petitioner have been suspended and the Petitioner is faced with serious liquidity crises. Further, the Petitioner's contractual obligations have been put to peril.

(22) It is submitted that the inaction of the Respondent in waiving the fixed minimum demand electricity

For, Gujarat Re-Rolling Mills Association


President

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charges is arbitrary and violative of the fundamental rights of the Petitioners. It is submitted that the Petitioner is ready and willing to pay the cost of actual consumption of electricity charges. It is further submitted that as the due date for paying the electricity charges for the Month of May, 2020 is 30th May, 2020, there is grave urgency on the part of the Petitioners.

- (23) It is further stated and submitted that in an identical matter being W.P. (C) 3120 of 2020, the Hon'ble High Court of Delhi vide order dated 21.05.2020 has called upon the Govt. of Delhi to try and complete consultation process with DERC and Discoms with regard to the issue of electricity charges. A copy of the said order dated 21.05.2020 is annexed hereto and marked as **Annexure M**.

For, Gujarat Re-Rolling Mills Association


President

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(24) The petitioners crave leave of the Hon'ble Court to add, amend, alter, vary, rescind or modify any of the grounds/averments made above, in the interest of justice.

(25) The petitioners state and submit that petitioners have no other equally efficacious, alternative and speedy remedy, save and except by way of the present Petition and the reliefs granted by this Hon'ble Court will be complete in its nature.

(26) The petitioners state and submit that petitioners have not filed any other petition in any other Court of law including this Hon'ble Court and Hon'ble the Supreme Court of India, with respect to the subject matter of the petition.

For, Gujarat Re-Rolling Mills Association


President

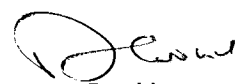
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(27) In the premises aforesaid, the Petitioner most humbly and respectfully prays that :

(A) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction to Respondent No. 1 to waive the fixed minimum demand electricity charges for May, 2020 to June, 2020;

(B) During the Pendency and Final Disposal of the present petition, YOUR LORDSHIPS may be pleased to restrain Respondent No. 2 to 6 from taking any coercive steps against the Petitioner including disconnecting their electricity supply, demanding and levying fixed electricity charges & penalties, if any, for the month of May, 2020 and June, 2020;

For, Gujarat Re-Rolling Mills Association


President

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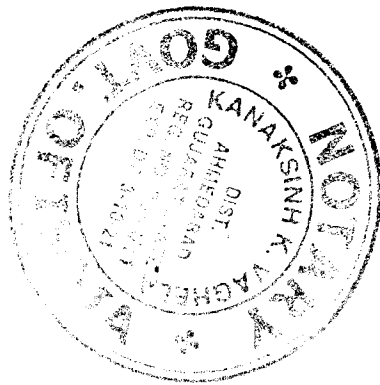
(C) Pass any such other and/or further orders that may be thought just and proper, in the facts and circumstances of the present case;

AND FOR THIS ACT OF JUSTICE AND KINDNESS, THE PETITIONER SHALL AS IN DUTY BOUND FOR EVER PRAY.

PLACE: AHMEDABAD
DATE: 25.05.2020

Arpit R. Singhvi
ARPIT R. SINGHVI

Advocate for the
Petitioner



For, Gujarat Re-Rolling Mills Association

[Signature]

President