

02. 03.12.2014

Heard Dr. A. M. Singhvi, learned Senior Advocate appearing for the petitioners and Mr. S.P. Mishra, learned Advocate General on behalf of the State.

Dr. Singhvi, learned Senior Advocate appearing for the petitioners brought to our notice the fact that the petitioners had approached the Hon ble Supreme Court in I.A. No.23 of 2014 in Writ Petition (Civil) No.114 of 2014 in the case of Common Cause vrs. Union of India & others and the petitioners sought for permission of the Court to withdraw the application with leave to approach the Hon ble High Court of Orissa and such permission sought for was granted by order dated 21.11.2014. It is reference herein that the present writ application came to be filed before this Court on 25.11.2014.

Issue notice.

An extra copy of the brief be served on the learned Assistant Solicitor General on behalf of the Union of India-opposite party No.1 and another extra copy of the brief be served on the office of the learned Advocate General on behalf of the State-opposite party No.2 within three working days.

Counter affidavit, if any, be filed within a period of four weeks from today after serving a copy thereof on the learned counsel for the petitioners.

Two further weeks time thereafter be allowed to the learned counsel for the petitioners to file rejoinder affidavit, if any.

List this matter on 28.01.2015 at the top of the hearing list along with W.P.(C) Nos.23198, 23199 & 23201 of 2014. Pleadings be completed by then.

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I. Mahanty, J.

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03. 03.12.2014

B.N. Mahapatra, J.

Misc. Case No.20466 of 2014

Heard.

Dr. Singhvi, learned Senior Advocate for the petitioners drew our attention to various facts of the present case and, in particular, to the decisions taken by the State Government under Annexure-7 dated 31.05.2014 within which after considering all the aspects of the subject held that exercise power under Section 8(3) of the MMDR Act allowed the petitioners to resume mining operation due to the criticality and absolute necessity for continuation of the petitioners Steel Plants, since the mines were supplying ore for captive use in the petitioners Steel Plants. Various other arguments have been advanced on the factual backdrop of the development that has taken place from time to

time but we need not at the present juncture while considering the application seeking interim relief enter into the same.

Having heard learned Advocate General for the State, it appears from the letter dated 21.10.2014 (Annexure-33) communication issued by the Deputy Director Mines, Joda Circle, Dist. Keonjhar, requesting the petitioner to ensure execution of the concerned lease deeds by 15.11.2014 positively, since after the said date mining operation would only be allowed if the mining lease deed would be executed by then.

Learned Advocate General for the State submits that the Deputy Director Mines, in deference to the judgment dated 16.05.2014 of the Hon ble Supreme Court in the case of Common Cause, in which the Hon ble Supreme Court had directed the State Government to conclude consideration of 26 lessees who had utilizing the ore for their captive purchases on a priority basis within the period of six months from the said date. The said period was coming to an end on 15th November, 2014, and consequently, the order under Annexure-33 was passed.

Learned Advocate General also drew our attention to the fact that the State of Orissa had approached the Hon ble Supreme Court in I.A. No.21 of 2014 in the aforesaid Common Cause case, wherein the Hon ble Supreme Court allowed State s I.A. by granting the State, another three months time from today i.e. 21.11.2014 to comply with the order dated 16.05.2014, consequently the period was stands extended up to 20.02.2015.

We take note of the aforesaid directions of the Hon ble Apex Court and in view of the extension of time granted by the Hon ble Supreme Court, the reasons cited by the State for not allowing the petitioners to continue with their mining operations beyond 15th November, 2014, no longer subsists.

Therefore, as an interim measure, we direct that the petitioners shall be permitted to continue with their mining operation, as permitted by the State Government under its letter dated 31.05.2014 and consequential direction issued thereon to resume mining and such order shall continue to remain in operation till the next date i.e. 28th January, 2015 and also be issued with the requisite Transit Permits. We further direct that order under Annexure-33 shall remain in abeyance till the next date.

A free copy of this order be handed over to the learned counsel for the State as well as learned counsel for Union of India for necessary communication and compliance.

Urgent certified copy of this order be granted on proper application in course of the day.

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I. Mahanty, J.

B.N. Mahapatra, J.