

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2456 of 2015

1. Ritesh Kumar Behra S/o Shri Nilkanth Behra Aged About 41 Years
R/o Jhikabahal, Post- Libra, Police Station- Tamnar, Distt.- Raigarh
(Chhattisgarh)

---- Petitioner

Versus

1. Union Of India Through- The Secretary, Ministry Of Coal, Shashtri,
Bhawan, New Delhi
2. Coal India Limited, Through- The Chairman, 10, Netaji Subhash
Road, Kolkata- 700001.
3. South Eastern Coalfields Limited, Through- The Managing Director,
South Eastern Coalfields Limited, Seepat Road, Bilaspur
(Chhattisgarh)
4. Bharat Aluminium Company Limited, Through- The Managing
Director, Bharat Aluminium Company Limited, Registered Office -
Aluminium Sadan Core- 6, Scope Office Complex, Lodi Road, New
Delhi.
5. The Vice President Jindal Open Cast Coal Mines # 1 Dongamouha,
Tamnar, District- Raigarh (Chhattisgarh)
6. The Assistant Vice President, Human Resources & Employee
Services, Jindal Steel & Power Limited, Work Office- Jindal Steel &
Power Limited, P.B. # 16, Kharsia Road, Raigarh (Chhattisgarh)

---- Respondent

And

WPS No. 2460 Of 2015

1. Ramashray Soni S/o Late Shri Nathu Lal Soni Aged About 44
Years R/o Jarve (Hardi), Police Station - Baloda, Tahsil- Baloda,
Distt.- Janjgir Champa (Chhattisgarh)

---- Petitioner

Vs

1. Union Of India Through - The Secretary, Ministry Of Coal, Shashtri, Bhawan, New Delhi
2. Coal India Limited, Through- The Chairman, 10, Netaji Subhash Road, Kolkata- 700001.
3. South Eastern Coalfields, Limited, Through- The Managing Director, South Eastern Coalfields Limited, Seepat Road, Bilaspur (Chhattisgarh)
4. Bharat Aluminium Company Limited, Through- The Managing Director, Bharat Aluminium Company Limited, Registered Office - Aluminium Sadan Core- 6, Scope Office Complex, Lodi Road, New Delhi.
5. The Vice President Jindal Open Cast Coal Mines # 1 Dongamouha, Tamnar, District- Raigarh (Chhattisgarh)
6. The Assistant Vice President, Human Resources & Employee Services, Jindal Steel & Power Limited,work Office- Jindal Steel & Power Limited, P.B. # 16, Kharsia Road, Raigarh (Chhattisgarh)

---- Respondent

And

WPS No. 2457 Of 2015

1. Ram Kumar Shriwas S/o Shri Lakhan Lal Shriwas Aged About 26 Years R/o Binoba Nagar, Boirdadar, Police Station- Raigarh, Distt.- Raigarh (Chhattisgarh)

---- Petitioner

Vs

1. Union Of India Through- The Secretary, Ministry Of Coal, Shashtri, Bhawan, New Delhi
2. Coal India Limited, Through- The Chairman, 10, Netaji Subhash Road, Kolkata- 700001.

3. South Eastern Coalfields, Limited, Through- The Managing Director, South Eastern Coalfields Limited, Seepat Road, Bilaspur (Chhattisgarh)
4. Bharat Aluminium Company Limited, Through- The Managing Director, Bharat Aluminium Company Limited, Registered Office - Aluminium Sadan Core- 6, Scope Office Complex, Lodi Road, New Delhi.
5. The Vice President Jindal Open Cast Coal Mines # 1 Dongamouha, Tamnar, District- Raigarh (Chhattisgarh)
6. The Assistant Vice President, Human Resources & Employee Services, Jindal Steel & Power Limited,work Office- Jindal Steel & Power Limited, P.B. # 16, Kharsia Road, Raigarh (Chhattisgarh)

---- Respondent

For Petitioners	Shri Alok Kumar Pandey & Shri R.R. Soni, Advocates
For Respondent/UOI	Shri R.K. Gupta, Advocate
For Respondent No.2&3	Shri Vinod Deshmukh, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

C A V Order

08/09/2015

1. In these three writ petitions, the petitioners would assail the letters of termination issued by the respondent No.6 – The Assistant Vice President, Human Resources & Employee Services, Jindal Steel & Power Limited.
2. The petitioners claimed to be working on different posts in the establishment of the respondent No.6, who was operating Gare-Palma – IV/1 coal mines, popularly known as Jindal Open Cast Coal Mine # 1, Dongamouha. The said allotment of coal mines was

cancelled under the orders passed by the Supreme Court in **Manohar Lal Sharma v. Principal Secretary and Others**¹.

3. According to the petitioners, after cancellation of the coal mines, the same has been entrusted to the Coal India Limited (for short 'CIL'), as designated custodian.
4. It has been argued that since the subject coal mines is now managed by the respondent CIL, the respondent No.6 is not competent to terminate the petitioners from the services.
5. It is settled law that private company would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution of India because a company is not an instrumentality of the State.
6. The Supreme Court in **Federal Bank Ltd. v. Sagar Thomas and Others**², held thus :

18. From the decisions referred to above, the position that emerges is that a writ petition under Article 226 of the Constitution of India may be maintainable against (i) the State (Government); (ii) an authority; (iii) a statutory body; (iv) an instrumentality or agency of the State; (v) a company which is financed and owned by the State; (vi) a private body run substantially on State funding; (vii) a private body discharging public duty or positive obligation of public nature; and (viii) a person or a body under liability to discharge any function under any statute, to compel it to perform such a statutory function.

27. Such private companies would normally not be amenable to the writ jurisdiction under Article 226 of the Constitution. But in certain

1 (2014) 9 SCC 614

2 (2003) 10 SCC 733

circumstances a writ may issue to such private bodies or persons as there may be statutes which need to be complied with by all concerned including the private companies. For example, there are certain legislations like the Industrial Disputes Act, the Minimum Wages Act, the Factories Act or for maintaining proper environment, say the Air (Prevention and Control of Pollution) Act, 1981 or the Water (Prevention and Control of Pollution) Act, 1974 etc. or statutes of the like nature which fasten certain duties and responsibilities statutorily upon such private bodies which they are bound to comply with. If they violate such a statutory provision a writ would certainly be issued for compliance with those provisions. For instance, if a private employer dispenses with the service of its employee in violation of the provisions contained under the Industrial Disputes Act, in innumerable cases the High Court interfered and has issued the writ to the private bodies and the companies in that regard. But the difficulty in issuing a writ may arise where there may not be any non-compliance with or violation of any statutory provision by the private body. In that event a writ may not be issued at all. Other remedies, as may be available, may have to be resorted to.

7. In the case at hand, the petitioners have not been terminated by the respondent CIL, but by the respondent No.6, a company registered under the provisions of the Companies Act, 1956, therefore, in view of the law laid down by the Supreme Court in **Federal Bank Ltd.** (supra), the writ petition is not maintainable.
8. As a sequel, all the petitions are liable to be and are hereby dismissed.

Sd/-

Judge

Prashant Kumar Mishra