

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 211 of 2015**

1. South Eastern Coalfields Limited, Through Its Chairman-cum-Managing Director,
Seepat Road, Bilaspur, Chhattisgarh.
2. Chief General Manager, South Eastern Coalfields Limited, G.M. Complex, West
Chirmiri Colliery, Podi, District Korea, Chhattisgarh.
3. Deputy Chief Personnel Manager, South Eastern Coalfields Limited, Chirmiri
Area, West Chirmiri Colliery, Podi, District Korea, Chhattisgarh.
4. Sub Area Manager (Mines) South Eastern Coalfields Limited, West Chirmiri
Colliery, District Korea, Chhattisgarh.

---- Appellants**Versus**

Dharmi Bai W/o Late Roopsai Gond, aged about 40 years, R/o Navapara, Podi
(West Chirmiri) P.S. Podi, Tahsil Baikunthpur, District Korea Chhattisgarh.

---- Respondent

For Appellants	:	Shri H.B.Agrawal, Senior Advocate with Smt. Preeti Yadav, Advocate.
For Respondent	:	Ms. Farah Minhaz, Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****14/10/2015**

1. The present appeal arises from order dated 8.12.2014 in Writ Petition (S) No. 2545 of 2012 allowing the same directing consideration of the Respondent's claim for compassionate appointment and to pass necessary orders within the time specified.

2. Learned Senior Counsel for the Appellants submitted that the deceased Roopsai Gond had two wives, Munni Bai and the present Respondent-Dharmi Bai. The former had filed Civil Suit No. 25-A/2007 before the Second Additional District Judge, Manendragarh at Korea for a declaration that she was the lawfully wedded wife, whom the deceased had married first. The suit has been dismissed on 28.7.2007 against which Munni Bai had preferred a first appeal which is pending before this Court. In a disputed claim for compassionate appointment between the two claimant wives, both contending that they were the lawfully wedded wife of the deceased, the Appellant-SECL cannot be said to have been committed any wrong in not granting compassionate appointment to the Respondent till the final decision in the first appeal. The Learned Single Judge ought not to have directed that in absence of any order of restraint in the appeal, the claim of the Respondent for compassionate appointment was required to be considered.

3. Learned Counsel for the Respondent submitted that on 8.9.2009, by letter No. SECL/WC/PD/PI/09/256, the Superintendent of Mines Manager West Chirmiri Colliery has informed the Respondent under the Right to Information Act, that the order for compassionate appointment dated 27.7.2009 has been issued in her favour after the death of her husband. Contrary to their own documents, the Appellants were now seeking to contest the matter.

4. We have considered the submissions on behalf of the parties.

5. The Appellant-SECL is a State within the meaning of Article 12 of the Constitution of India and is bound by the provisions of Article 14 of the Constitution. Its conduct has to be fair, reasonable, dispassionate and above board. It must not give an impression that it was acting in a manner to assist one private claimant against a rival competing claimant.

6. The deceased died on 10.12.2003. There is always an urgency in a claim for compassionate appointment due to the sudden death of the bread winner. The letter dated 8.9.1990 in no uncertain terms states that the order for compassionate appointment was issued in favour of the Respondent on 27.7.2009. The suit filed by Munni Bai for declaration that she was the lawfully wedded wife was dismissed on 28.7.2007. Apparently, the letter of appointment was issued to the Respondent only thereafter.

7. The conduct of the Appellants in taking shelter behind a pending appeal when there has been finality on the issue by the Civil Court, virtually challenging their own order dated 27.7.2009 is extremely unfortunate to say the least giving the impression of an unnecessary interest shown in a dispute between private claimants. We fail to understand in the facts, the justification for the Appellants to have preferred the present appeal. We were inclined to dismiss the appeal with costs but refrain from doing so.

8. In (2000) 1 SCC 644 (Sub-Inspector Rooplal v. Lt. Governor Through Chief Secretary, Delhi), it was observed as under:

"24. Before concluding, we are constrained to observe that the role played by the respondents in this litigation is far from satisfactory. In our opinion, after laying down appropriate rules governing the service conditions of its employees, a State should only play the role of an impartial employer in the inter-se dispute between its employees. If any such dispute arises, the State should apply the rules laid down by it fairly. Still if the matter is dragged to a judicial forum, the State should confine its role to that of an *amicus curiae* by assisting the judicial forum to arrive at a correct decision. Once a decision is rendered by a judicial forum, thereafter the State should not further involve itself in litigation. The matter thereafter should be left to the parties concerned to agitate further, if they so desire. When a State, after the judicial forum delivers a judgment, files review petition, appeal etc. it gives an impression that it is espousing

the cause of a particular group of employees against another group of its own employees, unless of course there are compelling reasons to resort to such further proceedings. In the instant case, we feel the respondent has taken more than necessary interest which is uncalled for. This act of the State has only resulted in waste of time and money of all concerned."

9. Mandamus is issued to the Appellants to act in accordance with their own letter dated 27.7.2009 as the standards by which the action of a Government body shall be tested are the same by which it professes to act. The compliance must be ensured forthwith on presentation of a copy of this order.

10. The appeal is allowed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE