

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application (O) No. 355 of 2015 in Misc. C.A.No. 142 of 2015 in W.P.No. 6400 of 2014.

Punya Coal Roadlines through its Director and others .v. M/s Western Coalfields Limited, Coal Estate,Civil Lines, Nagpur and another.

Notes, Office Memoranda of

Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's
Orders.

Mr. M.G.Bhangde, Senior Advocate with
Mr R.M.Bhangde, Adv. for the petitioners.
Mr. S.P.Dharmadhikari, Senior Advocate
with Mr. Anilkumar, Adv. for respondents.

CORAM: B.R.GAVAI &

MRS. MRIDULA R. BHATKAR,JJ

DATE : 26.2.2015

This application is for amendment to the Civil Application which is already filed seeking review of the passed passed by this Court dated 22.1.2015.

For the reasons stated in the application, the application is allowed. Amendments be carried out forthwith.

Misc. C.A.No. 142 of 2015 in W.P.No. 6400 of 2014: (M/s
Punya Coal Roadlines and others vs. M/s Western Coalfields

limited, Coal Estate, Civil Lines Nagpur and another).

The review petition is pressed into service on the following grounds.

i) That the Resolution of the Coal India Limited dated 28th August, 2014 permits the authorities only to debar a particular contractor with regard to a particular contract in that particular subsidiary alone.

ii) Though in para no.6, this Court has recorded the arguments advanced by the learned counsel for the petitioners regarding the doctrine of 'proportionality', the same is not considered.

iii) That though various other points were argued at the time of hearing of the petition on the basis of the Judgments rendered by the lordships of the Apex Court, same have not been even reproduced by this Court while delivering the Judgment.

2. Insofar as the first ground is concerned, it will be appropriate to reproduce the resolution on which learned

Senior counsel relies, which reads thus:-

“Resolved that in supersession of earlier board decision, approval be and is hereby given that if any party is black-listed for business dealing in any one of the subsidiaries of CIL, it shall be effective in that particular subsidiary with reference to that particular contract. If the party is not black listed in other subsidiaries of CIL at that point of time, the debarring/ blacklisting in one particular subsidiary shall not be applicable in toto to other subsidiaries, since the performance of contracts in other subsidiaries would be governed by those respective contracts. The decision to debar or black list in other subsidiary companies is to be taken by CIL after examining the merit in each case, taking into consideration the performance of the party in other subsidiaries and should be done in a way as suggested in purchase manual of CIL.”

3. Perusal of the said resolution would reveal that the Coal India Limited has resolved that when a particular party is black listed, that black listing has to be restricted only for that particular subsidiary and with regard to the particular work.

4. Undisputedly, the petitioner has been debarred from all the contracts for the period of three years.

5. As of now, there is no occasion for consideration of the petitioner for any other contract than that of transportation of over burden. Apart from that the contract between the parties specifically empowers the respondent company to impose penalty of debarring a defaulting contractor for a period of three years. In that view of the matter, we do not find that any error apparent on the face of record is noticed to invoke review jurisdiction on that ground. .

6. Insofar as the second ground is concerned, no doubt that this Court has specifically recorded submissions of the learned counsel for the petitioners regarding proportionality and has not recorded certain submissions made by the learned counsel for the petitioners at the stage of hearing of the petition.

7. However, the Court was basically concerned in the said petition with regard to the scope of the powers of this Court under Article 226 for reviewing the action of the administrative authorities. The petitioners in effect were challenging the action of the respondent in cancelling the contract awarded to the petitioners. The court upon

considering the factual matrix has specifically come to the conclusion that the conduct of the petitioners was such that for A or B reason they were trying to avoid the work which was allotted to them. We have specifically noticed in our order that though the petitioners have specifically assured to start the work in writing and though joint site inspection was made, the petitioners again indulged in the same conduct of not starting the work.

8. While considering the scope of the judicial review, the Court is only required to examine as to whether the action taken by the respondent authority is arbitrary, irrational, mala fide or illegal. The basic principle, which the Court is required to take into consideration, is that of the principle of 'Wednesbury' reasonableness. The question which the court is supposed to ask itself, is as to whether the action taken by the authority is such that no reasonable person with reasonableness understanding it would take in similar facts.

9. The Apex Court has also observed in the case of Rashmi Metaliks Limited and another vs. Kolkata Metropolitan Development Authority and others, reported in

(2013) 10 Supreme Court Cases, 95 that the law with regard to the exercise of power of this Court seeking judicial review is governed by the case of the Apex Court in the case of Tata Cellular vs. Union of India, reported in (1994) 6 SCC, 651 and reference to the said Judgment is sufficient and Court should avoid writing lengthy Judgments by reproducing various Judgments or authorities. In our Judgment, we have specifically referred to the law laid down by the Apex Court in the case of Tata Cellular (supra) and as to how the present case failed into said legal position.

10. In so far as third ground is concerned, though various submissions are made, it is not necessary for this court to record each and every submissions and dealt with it elaborately. The Court is required to go into the crux of the matter and deal with the same.

11. The Apex Court very recently has come down heavily on the High Courts in writing lengthy Judgments by reproducing earlier Judgments of the Supreme Court and the High Courts and make the Judgments bulkier.

12. In that view of the matter, we do not find any case is made out for seeking review jurisdiction. The review application is, therefore, rejected.

JUDGE

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