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

W.P.No. 1474 of 2015
Karnataka Emta Coal Mines Ltd. .vs. State of Maharashtra and others.

Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders.

Mr. S.C.Mehadia, Adv. for petitioner.
Mr. N.R.Rode, AGP for R-1 to 3.

CORAM : B.P.DHARMADHIKARI &
S.B.SHUKRE, JJ
DATE : 23.3.2015

Heard.

2. This court issued notice in the matter on 19th March, 2015 and on 20th March, 2015 after hearing respective counsel, we adjourned the matter for today.

3. The petitioner has been restrained from creating third party interest or any other encumbrance on its movable and immovable properties.

4. The challenge, in the petition, is to recovery of Rs. 19,78,11,247/- sought by respondent no.3 Tahsildar as

arrears of land revenue. It is towards the royalty on account of Coal Excavation by petitioner in its Captive Mine.

5. Reply affidavit has been tendered by the learned AGP and it is taken on record. It is sworn by District Mining Officer. In nutshell, the defence appears to be on G8 quality/ grade of coal excavated by the petitioner, the royalty should have been paid @ Rs. 211.40 per tonne. The royalty, however, has been paid at less rate varying from Rs. 151.46 to Rs. 179.80 per tonne. Thus, the difference is to be recovered as arrears of land revenue. The short payment is alleged to be for the period commencing from January 2014 to December, 2014. The petitioners have filed an application for amendment of the petition.

6. Advocate Shri Mehadia, submits that the petitioner was never served with proper notice pointing out the nature of dispute and also the reason for demanding the said arrears. He submits that the rate is to be decided as per the Notification dated 10th May, 2012 issued by the Ministry of Coal and the annexure to the price notification dated 16.12.2012. According to the practice, the petitioner examines the quality of coal after

it is received at its plant at Bellari and there the grade is decided. Depending upon such grade, the royalty is paid at rate as per the above mentioned price notification. He submits that for all the coal received from January 2014 to December 2014, after due analysis of gradation, correct amount of royalty has been paid and as such there are no arrears. He further submits that if the rate of royalty used by the petitioner was found less or incorrect, the grievance could have been made immediately by the respondents. No such grievance has been made by respondents till filing of the reply before this Court. According to him, if such dispute is to be examined, an opportunity should have been given to the petitioners.

7. It is apparent that the respondents have been receiving royalty from the petitioner till December, 2014, If they found that the petitioner was not paying complete royalty or was applying incorrect rate, they should have immediately written to the petitioner and asked it to make amends. There is no such effort and first communication alleging short payment is dated 15.1.2015. There is dispute between the parties about this communication as the petitioner urged that it has not received it at all. Perusal of the communication does not show

that the petitioner has used incorrect rate of royalty. The communication dated 3.3.2015 is forwarded by E-mail and it's D.O. Letter. The petitioner has filed affidavit of the concerned officer explaining that it escapes his attention.

8. The facts noted by us show too casual approach by the respondents in the matter. If their stand is correct then they are aware since the day one that the petitioner was not applying correct multiplier (royalty rate) and, therefore, was not paying full royalty. The grievance alleged to be made on 15.1.2015, could have been made at any time in January, 2014 or before December, 2014. That has not been done. Perusal of the communication dated 15.1.2015 also does not contain anything to gather that arrears have accumulated on account of the use of wrong multiplier.

9. All these factors, therefore, do not show the entitlement of the respondents to claim the alleged amount of arrears.

10. We have also taken note of the fact that the petitioner has to operate coal blocks only till 31.3.2015. In this

situation, to prevent any loss of the revenue to the State Government, we have also passed appropriate interim orders. We find that the recovery, in the situation, could not have been worked out without extending necessary opportunity to the petitioner. We, therefore, direct the petitioner to appear before the respondent no.2 Collector on 26.3.2015 and to abide by his further instructions in the matter. The Collector, Chandrapur shall take suitable decision in this respect and work out the arrears, if any, at the earliest. The steps for recovery shall then be taken as per law. Till the Collector passes suitable orders in this respect, interim orders passed against the petitioner shall continue.

11. If the recover of the arrears is rendered impossible on any accounts whatsoever, it shall be open to respondent no.1 State of Maharashtra to hold suitable inquiry against its officer in the matter. With these directions, we set aside the demand notice dated 18.3.2015. The writ petition is, thus, partly allowed and disposed of. No costs.

JUDGE **JUDGE**

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