HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.2711 of 2015

Date: 12-02-2015

Between

G.Shankar

… Petitioner

and

The Singareni Collieries Co. Ltd.,
Rep. by its Chairman and MD,
Singareni Bhavan, Khairatabad,
Hyderabad;
and 3 others

… Respondents

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.2711 of 2015

Order:

Heard Sri V.Ravi Kiran Rao, learned counsel appearing for the petitioner, Sri Nandigam Krishna Rao, learned Standing Counsel appearing for the respondents 1 to 3-The Singareni Collieries Company Limited and Sri P.A.V.V.S. Sarma, learned counsel appearing for the 4th respondent.

2. This writ petition is filed seeking to declare the

action of the respondents 1 to 3 insofar as insisting for payment of Employees Coal Mines Provident Fund for the drivers engaged by the petitioner for transportation of coal through the lorries of the petitioner i.e. loading the coal at Medapalli Opencast Project and unloading the same at different CHPs (Coal Handling Projects) by way of Contractor's contribution pursuant to Clause 6 in the work Order No.7600005755 dated 02-01-2015 as well as Clause 6 in Agreement bond dated 06-01-2015 and the steps taken by the respondent company for deducting the same from out of the amounts payable to the petitioner in accordance with the above said work order through the provisions of the Coal Mines Provident Fund and Miscellaneous Provisions Act 1948 are not applicable to the Transport Contractor more particularly when the petitioner is transporting coal by duly declaring Clause 6 in the work Order No.7600005755 dated 02-01-2015 as well as Clause 6 in Agreement bond dated 06-01-2015 as illegal, arbitrary and contrary to the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 and A.P. Coal Mines Provident Fund Scheme.

3. Similar issue fell for consideration in W.P.No.11107 of 2009 and batch wherein learned single Judge of this Court has disposed of the batch of writ petitions with certain directions.

4. The question involved in the present writ petition is

squarely covered by the common judgment dated 30-3-2011 in W.P.No.11107 of 2009 and batch. Therefore, this writ petition is also disposed of in terms of the said common judgment, with the following directions:

a) The Regional Commissioner or any Officer authorized by him shall first issue a notice to the petitioner to decide whether the activity undertaken by the petitioner comes within the definition of Coal Mine: It shall be open to the petitioner to submit explanation;

b) In the event of the activity being declared as the one in coal mine, the employees shall be enrolled as members, subject to their fulfilment of the prescribed conditions, the respondents shall assign account numbers and issue cards; and the deductions shall be made with reference to the account numbers and cards so issued, periodically;

c) Till such time, no deductions shall be made, but if it is held that the petitioner is liable, at a later point of time, he shall be under obligation to pay the arrears also;

d) The amount deducted from the petitioner, so far, shall be kept in FDRs and the manner in which it shall be utilized shall be decided, depending upon the outcome of the exercise undertaken above; and

e) The authority of the coal mines provident fund shall ensure that it does not deduct any amount, without reference to a particular employee, who is admitted to the provident fund.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

12th February, 2015.
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HON'BLE SRI JUSTICE R.KANTHA RAO

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12th February, 2015.
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