

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 656 of 2018

- South Eastern Coalfields Limited Through The Chief General Manager South Eastern Coalfields Limited, Bishrampur, Area Bishrampur, Tahsil And District Surajpur, Chhattisgarh

---- Appellant

Versus

1. State of Chhattisgarh Through The Secretary, Department of Urban Administration And Development Government Of Chhattisgarh, Mantralaya Mahanadi Bhawan, Naya Raipur, District Raipur, Chhattisgarh
2. Nagar Panchayat Bishrampur, Through The Chief Municipal Corporation, Nagar Panchayat Bishrampur, Tahsil And Surajpur, Chhattisgarh.

---- Respondents

For Appellant	: Shri H. B. Agrawal, Senior Advocate assisted by Ms. Deepali Dubey, Advocate
For Respondent No.1/State	: Shri Prafull N. Bharat, Additional Advocate General

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice

Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board

Per, Ajay Kumar Tripathi, Chief Justice

27.09.2018

1. I.A. No. 01 of 2018 is an application for condonation of delay of 49 days in filing the appeal. It is allowed for the reasons indicated in the application and delay is condoned.
2. Having heard the learned Senior Counsel for the Appellant and learned Additional Advocate General for the Respondent-State, we are not satisfied that the learned Single Judge has committed any error of law in his impugned order dated 23.04.2018 against which present appeal has been preferred. The issue was a demand having been raised upon the Appellant-Company by the Municipal Authorities levying property tax. Question was raised before

the learned Single Judge that the State Government or the Municipal Authorities could not include property belonging to Government of India used for mining purposes in the Nagar Panchayat of Bishrampur. If that be so, then no demand for recovery of property tax could also be made.

3. Such submission was considered by the learned Single Judge keeping in mind the settled principle of law on such question which already stand answered by the Hon'ble Supreme Court. The earliest of decision is the case of **Western Coalfields Limited v. Municipal Council, Birshinghpur Pali and another** reported in **(1999) 3 SCC 290** which held that a Government Company does not beget the protection or the exemption under the constitutional provision i.e. Article 285 of the Constitution of India since the Company cannot be equated with Union of India.
4. The other aspect which has been answered by the learned Single Judge is whether the State Government had the necessary powers to notify a Nagar Panchayat or a Corporation. Here also drawing support from the decision of the Hon'ble Supreme Court in the case of **Sundarjas Kanyalal Bhathija and Others v. The Collector, Thane, Maharashtra** reported in **AIR 1990 SC 261** where it has been held that the power of the Government in establishing a Corporation or a Panchayat is neither an executive nor administrative power, but is a legislative process.
5. In view of the issues no longer being *res integra* and the facts being squarely covered by the principles taken note of by the learned Single Judge laid down by the highest Court of the land, we are not satisfied that any case is made for the interference in the impugned order.

6. The appeal has no merit, it is dismissed. However, the Appellant-Company is now granted four weeks time to respond to the notice by the Nagar Panchayat.

Sd/-
(Ajay Kumar Tripathi)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge