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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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+ **LPA 181/2018 & CM APPL. 13382-84/2018**

NTPC LTD & ANR

..... Appellants

Through: Mr. Tushar Mehta, ASG with
Mr. Puneet Taneja, Ms. Shaheen and
Mr. Rajat Nair, Advocates.

versus

M/S BGR MINING & INFRA LTD

.... Respondent

Through:

WITH

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LPA 183/2018 & CM APPL. 13390-92/2018

NTPC LTD

..... Appellant

Through: Mr. Tushar Mehta, ASG with
Mr. Puneet Taneja, Ms. Shaheen and
Mr. Rajat Nair, Advocates.

versus

M/S NCC BGR CONSORTIUM & ANR

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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09.04.2018

CM APPL. 13383/2018 in LPA 181/2018

CM APPL. 13391/2018 in LPA 183/2018

For the reasons mentioned in the applications, delay in filing
the present appeals is hereby condoned.

Applications stand disposed of accordingly.

CM APPL. 13382 & 13384/2018 in LPA 181/2018

CM APPL. 13392/2018 In LPA 183/2018

Allowed, subject to all just exceptions.

LPA 181/2018 and LPA 183/2018 & CM APPL. 13390/2018 (for stay)

The National Thermal Power Corporation ('NTPC') appeals against the orders of the learned Single Judge in the writ proceedings initiated by the respondents (M/S BGR Mining & Infra Ltd and M/s NCC BGR Consortium & Anr).

The writ petitioner entities were awarded mine development contract operative for 25 years pursuant to the culmination of public tendering process; through letter of acceptance dated 13.11.2017. Subsequently, the contract was entered into in respect of one of such letter of acceptance and issue with respect to the contract of others was pending. In the meanwhile, basing upon certain other – but allegedly related developments, NTPC sought to terminate the award of contract by issuing a notice dated 29.12.2017; this was preceded by suspension of mining operations. The NTPC's actions were based upon allegations of violation of Integrity Pact and the occurrence of event of default by the respondents. These were challenged in the writ proceedings.

By the first impugned order, the learned Single Judge directed

that NTPC will not take any coercive steps; this order was continued by the subsequent order dated 23.03.2018.

Learned Additional Solicitor General, who appears for the NTPC emphasises that the operation of the interim order has resulted in complete standstill and serious prejudice to public interest. It is urged in this context that the standstill of the mining operation has resulted in depreciation of power balance and impacts the power generation industry.

It was also urged that the decision in this case, impugned by the respondent, was taken after reference to the independent external monitor.

It was stated that in these exceptional circumstances, the appellant NTPC should be atleast allowed to initiate the process of advertising the award of fresh contract to the other parties and take the consequential steps.

The second impugned order dated 23.03.2018 clarifies that the learned Single Judge has listed the consideration of the interim proceedings on 25.04.2018. This Court is complicit that it involved larger public interest, at the same time it is also a fact that the issues are pending and the question of continuing the interim management, is squarely before the learned Single Judge who has not expressed any final opinion.

In these circumstances, it would be expedient and appropriate that the learned Single Judge considers the applications pending before him in the writ proceedings and passes an order on whether to

extend or modify them having regard to the circumstances. It is needless to add that the public importance of the matter cannot be undermined. It is clarified that the parties are at liberty to urge all contentions.

The appeals are disposed of in the above terms along with the pending application.

Order *Dasti*.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 09, 2018

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