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

+ **W.P.(C) 6114/2018 & CM APPL. 23279/2018**

OCL IRON AND STEEL LIMITED

..... Petitioner

Through: Mr. Rajeev Nayyar, Senior Advocate
with Mr. Manoj Arora and Mr.
Siddharth Shankar, Advs

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms. Maninder Acharya, ASG with
Mr. Kirtiman Singh, CGSC, Mr.
Waise Ali Moor, Mr. Harshul
Choudhary, Mr. Sahil Sood and Mr.
Viplav Acharya, Advs with Mr. N.K.
Singh, Dept Secretary, Ministry of
Coal for Respondent No. 1

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **30.05.2018**

CM APPL. No. 23730/2018 (Exemption)

1. Allowed, subject to all just exceptions.

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2. Issue notice.

2.1 Ms. Maninder Acharya accepts notice for the respondent. Ms. Maninder Acharya says that in view of the order that is proposed to be passed in the captioned petition, the respondent does not wish to file a counter affidavit in the matter.

3. The substantive prayers made in the petition are as follows:

(i) Issue a Writ of Certiorari or any other appropriate Writ or direction in the nature of Certiorari thereby quashing the Impugned Notice dated 21.05.2018 (Annexure-B) issued by Respondent No. 2;

b) Issue a direction to the Respondent No. 2 to restrain from invoking the Performance Security provided by the Petitioner in form of Bank Guarantee bearing no. 0084151GPER0003 dated 20.03.2018

c) Issue a direction to the Respondent No.2 grant approval pursuant to the application dated 16th May 2018 to start the operations in the mine;”

4. It is not disputed by Mr. Rajeev Nayyar, learned Senior Counsel, who appears for the petitioner, that the impugned show cause notice dated 21.05.2018 has been received by the petitioner.

4.1 Learned Senior Counsel submits that the reply to the show cause notice is in the process of being prepared and that it shall be filed within 10 days from today. Furthermore, Mr. Rajeev Nayyar says that if the respondent is inclined to adjudicate upon the impugned show cause notices, he has instructions to convey to the court that the subject bank guarantee will be kept alive for the period so ordered by the court.

4.2 The said statement is taken on record.

5. Upon reply being filed, as indicated above, by the petitioner, the concerned authority will adjudicate upon the matter and pass a speaking order thereof. A copy of the said order will be furnished to the petitioner.

5.1 In case the petitioner is aggrieved by the determination made by the concerned authority, it will have liberty to take recourse to a remedy known to law.

5.2 Mr. Nayyar, on instructions, says that the subject bank guarantee is alive till 31.03.2019. The said statement is taken on record.

5.3 In case need arises on account of delay in adjudication of the impugned show cause notice, the petitioner will extend the validity of bank guarantee till such time as indicated by the adjudicating authority. Needless to say, that the respondent will adjudicate upon the impugned show cause notices with due expedition. Pending adjudication, the subject bank guarantee will not be encashed.

6. It is made clear that in case the determination made *qua* the impugned show cause notice is against the interest of the petitioner, the same shall not be given effect to for a period of three weeks from the date of the decision.

7. Pertinently, nothing stated above will impact the decision which is required to be rendered by the adjudicating authority.

8. Writ petition is disposed of in the above terms.

9. *Dasti* under signatures of the Court Master.

RAJIV SHAKDHER, J

MAY 30, 2018

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