

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2765 of 2017

M/s Babul Smokeless Fuel Industries Pvt. Ltd. a company incorporated under the Indian Companies Act, 1956 having its factory at Industrial Area, Pandaul, Madhubani, through its Managing Director Awadhesh Kumar Chaudhary, son of Late Krishna Kant Chaudhary, resident of Balbhadrapur, P.S. Laheriasarai, District- Darbhanga.

... .. Petitioner

Versus

1. The Central Coalfields Ltd. a subsidiary company of Coal India Limited, having its office at Darbhanga House, Ranchi, through its Chairman-cum-Managing Director.
2. The Chairman-cum-Managing Director, the Central Coalfields Ltd., Darbhanga House, Ranchi Jharkhand.
3. The General Manager (Sales and Marketing), the Central Coalfields Ltd., Darbhanga House, Ranchi Jharkhand.
4. The Bihar Industrial Area Development Authority, having its office at Udyog Bhawan, East Gandhi Maidan, Patna, through its Managing Director.
5. The Managing Director, Bihar Industrial Area Development Authority, Udyog Bhawan, East Gandhi Maidan, Patna.
6. The Executive Director, Bihar Industrial Area Development Authority, Regional Office, Darbhanga.
7. The Area Incharge, Bihar Industrial Area Development Authority, Branch Office, Pandaul, District- Madhubani.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Raj Kishore Sinha, Advocate
For the C.C.L.	:	Mr. V.M.K. Sinha, Advocate
For the BIADA	:	Mr. Yashraj Bardhan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 16-10-2019 Heard learned counsel for the petitioner, learned counsel representing the BIADA as well as the Central Coal Field Limited.

Let the counter affidavit filed by the BIADA be taken



on record.

Although learned counsel for the BIADA has served a copy of the counter affidavit upon learned counsel for the petitioner and the respondent Central Coal Field Limited/Coal India Limited but learned counsel for the parties have submitted that in the facts and circumstances of the present case particularly the developments which have taken place during pendency of the writ application, this writ application may be disposed off without inviting any further pleading and on the basis of the materials available on the record. Such submissions have come when Mr. V.M.K. Sinha learned counsel representing the Central Coal Field Limited/Coal India Limited informed this court that in fact during pendency of the writ application the fuel supply agreement between the petitioner and the Central Coal Field Limited/Coal India Limited has expired and now in terms of the new policy unless the petitioner participates in the E-Auction and succeeds therein, there would be no question of any supply to the petitioner. The submission of Mr. Sinha is that this writ application has become infructuous. In this regard he has also placed on record a copy of the order dated 10.05.2019 passed by Hon'ble Division Bench of this court in L.P.A. No. 378/2009 and it's analogous matters wherein the Hon'ble



Division Bench has taken note of the new policy and left it open for the respondents of the said case to move before the appellant for an appropriate order in accordance with the policy.

It appears from perusal of the writ application that the petitioner has filed this writ application mainly challenging the report submitted by the respondent Executive Director, BIADA vide his Memo No. 952 and 953 both dated 30.11.2016 as contained in Annexure '10' series. Those reports were submitted to the respondent General Manager, Sales Marketing, Central Coal Field Limited reporting that the Unit in question was found to be closed. It is these reports of the Executive Director, BIADA which have been assailed saying that the reports do not contain true and correct facts and because of the said reports the Central Coal Field Limited/Coal India Limited was not allocating supplies to the petitioner.

In the given facts and circumstances of the case where this court finds that the question as to whether the Unit was lying closed is a pure question of fact and perhaps it could not have been possible for this court sitting under Article 226 of the Constitution of India to record a finding otherwise by nullifying the reports of the Executive Director, BIADA, in the changed circumstances even any exercise towards consideration of the



report and the basis thereof is not required to be undertaken. The Central Coal Field Limited/Coal India Limited has changed its policy, and, if in the terms of the changed policy the petitioner is eligible to participate in the E-auction, it is open for the petitioner to participate in the E-Auction subject to the terms and conditions and the policy decision of the Central Coal Field Limited/Coal India Limited. In such process of participation if any report is required from the authorities of the BIADA, it will be open for the petitioner to apply for such report, if permissible and if the petitioner is still eligible for the same subject to subsistence of the allotment and if such a request is made by the petitioner, the authorities of the BIADA shall consider the same and would make available the report upon an independent consideration of the materials before him.

The Writ Application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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