

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 760 of 2019**

1. South Eastern Coalfields Limited Through The Director Personnel Department, Head Quarter, Seepat Road, Bilaspur, District- Bilaspur, Chhattisgarh.
2. The General Manager (Personnel/nee) South Eastern Coalfields Limited Head Quarter, Seepat Road, Bilaspur, District- Bilaspur, Chhattisgarh.
3. The General (Mines)/sub Area Manager South Eastern Coalfields Limited, Charcha Mine (Ro), Baikunthpur, District- Koriya, Chhattisgarh.
4. The Area Personnel Manager South Eastern Coalfields Limited, Area Baikunthpur, District- Koriya, Chhattisgarh.
5. The Senior Manager (Personnel/NEE) South Eastern Coalfields Limited Head Quarter, Seepat Road, Bilaspur, District- Bilaspur, Chhattisgarh.

---- Petitioners**Versus**

Ravi Prakash Patel S/o Late Shri Bholanath Patel Aged About 40 Years
R/o C/o M.L. Sharma, Bhattipara, Margdarshan Road, Ward No. 5,
Baikunthpur, District- Koriya, Chhattisgarh.

---- Respondent

For Petitioners	: Mr. H.B. Agrawal, Senior Advocate with Mr. Vinod Deshmukh, Mr. V.R. Tiwari and Mr. Pankaj Agrawal, Advocates
For Respondent	: Mr. Vipin Tiwari, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****P. R. Ramachandra Menon, Chief Justice****22.08.2019**

1. This MCC has been preferred by the appellants in Writ Appeal No.360 of 2019 pointing out that the appeal was finalized by this Court based on the

submissions/undertaking given by the learned senior counsel appearing for the appellants, as recorded in paragraphs-8 and 9, as to the course of action to be pursued, based on the judgment passed by the learned Single Judge; but no such instruction was given to the learned senior counsel to have made any such undertaking. Paragraphs-8 and 9 of the judgment are reproduced below :

“8. It is brought to the notice of this Court by the learned counsel appearing for the parties on both the sides that the on account of the alleged contemptuous action on the part of the Appellant-Company, a Contempt of Court case has already been preferred and the same is pending. However, the learned Senior Counsel for the Appellants submits that the order passed as per Annexure A/9 was on the basis of a misconception as to the scope of the order and an opportunity might be given to correct themselves, stating that they are ready to recall the said order and to pass a proper order, whereby the Respondent-Writ Petitioner would be given a chance to join the promoted post, at the place of posting shown in the select list at Kusmunda, within a specified time.

9. The learned Senior Counsel for the Appellants-Company assures and undertakes that revised order will be served to the Respondent within a period of 15 days and he will be given another 10 days' time to join duty. All the observations with regard to the service conditions and such other things will stand intact, as already observed and ordered by the learned Single Judge.”

2. The challenge against the verdict passed by learned Single Judge was considered and we took note of the facts and figures. During the course of

arguments, it was revealed by us that we were not inclined to accept the case projected by the appellants, as we did not find any merit in the writ appeal. It was brought to our notice that contempt of Court proceedings were initiated and the same was pending before the learned Single Judge. Submissions were made on behalf of the appellants, also with reference to the subsequent order passed by the appellants on 01.07.2019 proclaiming that it was in compliance with the directions given in the judgement under challenge. We observed in paragraph-6 of our judgement dated 08.08.2019 in the appeal, that the exact intention and scope of the directions given by the learned Single Judge was very much discernible from paragraphs-5 and 6 of the judgement in the writ petition. To appreciate the scope of the said verdict, we extracted paragraphs-5 and 6 of the judgement passed by the learned Single Judge in our verdict.

3. In paragraph-7, we observed that a mere perusal of Annexure P/9 dated 01.07.2019 passed by the appellant-Company was more than sufficient to hold that, it was not in conformity with the directions given by the learned Single Judge. On making such declaration, the learned senior counsel, realizing the mistake in the course of action pursued by the appellant-Company, made a submission to the effect that Annexure P/9 was based on the misconception as to the scope of the judgement under challenge and that the appellants might be given opportunity to rectify the mistake; adding that necessary steps would be taken in this regard, as mentioned in paragraphs-8 and 9 of our judgement in appeal.
4. Since such submission was made by the learned senior counsel after the declaration/observation made by us as mentioned in paragraphs-6 and 7

of our judgement, we are of the view that there was nothing wrong on the part of the learned senior counsel in having made the submission, in view of the fact that the order passed by the appellant-Company could not be held as in conformity with the directions given by the learned Single Judge, more so, since contempt of Court proceedings were pending. Now, since the present MCC has been filed at the instance of the appellant-Company, stating that they had not given any such instruction to the learned senior counsel, virtually disowning the senior counsel engaged by them, we do not intend to cause any embarrassment to the learned senior counsel. In the said circumstance, we modify the submission made in the form of undertaking and declare it as the direction given by this Court. The appeal preferred by the appellant-Company is devoid of any merit and it stands dismissed.

Sd/-

(P.R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge