Serial No. 05
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 306 of 2020

Date of Order: 06.11.2020

Shri. Amit Garg Vs. State of Meghalaya & 3 Ors.

Coram:

Hon'ble Mr. Justice Ranjit More, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. P.Jain, Adv.

For the Respondent(s) : Mr. A.Kumar, AG with
Ms. S.G.Momin, Addl. Sr. GA.

1. Heard.

2. The petition is filed under Article 226 of the Constitution of India challenging Clauses 3, 4 and 5 of the Coal Auction Notice dated 24-09-2020.

3. The petition was placed for admission on 08-10-2020. During the course of hearing, learned AG submitted that Clauses 4 & 5 of the subject Auction Notice were inserted in pursuant to para 10 of the Sixth Schedule of the Constitution of India and the Regulation namely "The Garo Hills District (Trading by Non-Tribals) Regulation, 1957." It was the submission of learned AG that Clauses 4 & 5 of the Auction Notice cannot be challenged in the absence of challenge to the said Regulation.

4. Mr. P.Jain, learned counsel for the petitioner thereafter sought leave to amend the petition so as to enable him to challenge Clause 3 of the said Regulation of 1957. Since learned AG had no objection to grant leave to amend, I granted leave to the petitioner to amend the petition and challenge the provisions of Clause 3 of said Regulation of 1957.

5. The petitioner instead of amending the petition in pursuant to the leave granted on 08-10-2020, filed a separate Misc. Application No. 159/2020 for amendment of the writ petition. Since leave was expressly granted, there was

no need to file separate application on the part of the petitioner. Accordingly, I passed an order on 12-10-2020 and time to carry out the amendment was extended by further 2 days. Misc. application No. 159/2020 for amendment was also disposed of.

6. Despite above, the petitioner has not complied with the orders dated 08-10-2020 and 12-10-2020. Mr. P.Jain, learned counsel for the petitioner today submits that he has no instruction, therefore, he could not carry out the amendment in the petition. He also submits that the petition has rendered infructuous as the Coal Auction is already held. He further state that since he has no instruction regarding the amendment, the petition may be disposed of, on merits.

7. The Clauses 3, 4 and 5 of the subject Coal Auction Notice which are under challenged in the present petition reads as follows:

> *"3. The interest persons/parties may inspect the seized coal from the site anytime during office hours before bidding and the undersigned will not be responsible for over assessment/under assessment of seized coal at the site.*
>
> *4. The non-tribal applicants will have to enclose a License for Trading by Non-Tribals issued by the Garo Hills Autonomous District Council for the last 3(three) years.*
>
> *5. The applicant will also have to enclose a "No Objection Certificate" issued by the A'king Nokma of the area of the LOT for which he/she is bidding along with the application."*

8. So far as Clause 3 is concerned, I find that the quantity of coal is mentioned in the Auction Notice itself and therefore, the direction of the learned Single Judge in WP(C). No. 10/2020 are complied with. Petitioner was always at liberty to inspect the seized coal at the site anytime. So far as Clauses 4 and 5 are concerned, I agree with the learned AG's submission that same were inserted in the subject Coal Auction Notice in the light of para 10 of the Sixth Schedule of the Constitution of India and Clause 3 of the Regulation namely "The Garo Hills District (Trading by Non-Tribals) Regulation, 1957."

9. In the circumstances, I do not find any merit in the petition. Be that as it may, the subject Coal Auction is already held and statement is also made by Mr. P. Jain, learned counsel for the petitioner that petition has rendered infructuous.

10. In above circumstances, petition is dismissed.

Judge

Meghalaya
06.11.2020
"Samantha PS"