

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1363 of 2021**

Prakash Industries Limited, Through Its Assistant Vice President (Corporate Affairs) Shri Arun Kumar Singh, S/o. Late Shri Shiv Dayal Singh, Aged About 53 Years, Having Office At Champa, District Janjgir Champa, 495671 (Chhattisgarh)

---- **Petitioner**

Versus

1. South Eastern Coalfields Limited, Through Its Chairman Cum Managing Director, Seepat Road, Bilaspur, District Bilaspur Chhattisgarh.
2. Coal India Limited, Through Its Director (Marketing), Coal Bhawan, Campus No. 04-MAR, Plot No. AF-III, Action Area 1A, New Town, Rajarhat, Kolkata 700156 (West Bengal)
3. Director Technical (Operations) South Eastern Coalfields Limited, Seepat Road, Bilaspur, District Bilaspur Chhattisgarh
4. General Manager (Sales And Marketing), South Eastern Coalfields Limited, Seepat Road, Bilaspur, District Bilaspur Chhattisgarh.

---- **Respondents**

For Petitioner	:	Shri P.K.Bhaduri, Advocate
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For Respondents	:	Shri Vaibhav Shukla, Advocate
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Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

08.03.2021

Heard

1. Learned counsel for the petitioner would submit that pursuant to the coal supply agreement, the petitioner was lifting the coal and due to lock-down period, the coal could not be lifted for the month of April - June. Consequently, it resulted into heavy loss and the petitioner as per the agreement has given a notice of Exit from the Fuel Supply Agreement by letter dated 01.07.2020 (Annexure P-8). Subsequently, the Coal India Limited floated an amnesty scheme on 03.07.2020 (Annexure P-9) which was adopted by the SECL by Annexure P-10 by notification dated

09.07.2020. He would submit that despite the termination of the agreement, a right would be accrued in favour of the petitioner as per Clause 17.03 of the contract; meaning thereby the discretion was on the petitioner to lift the coal for which the scheme was floated. He would submit that the petitioner thereafter since though asked for return of the amount at the initial time of termination but subsequently requested to hold back the performance security amount by letter dated 18.12.2020. He would submit that till date the performance guarantee amount was not returned. He further submits that to show the bonafide, the petitioner has also deposited the amount for lifting the coal by depositing of the amount by RTGS. He would submit that now as per the communication which has been received from the SECL, the petitioner would not be allowed to lift the coal for the period April-June which was allowed by the notification dated 09.07.2020, though the right has accrued in his favour. It is stated however as per the communication as received, the SECL not only would forfeit the performance guarantee amount but also would likely to impose the penalty which would be against the amnesty scheme floated by the Coal India and it would defeat the spirit of scheme itself. Therefore, the SECL may be directed to supply the coal as per the scheme and subsequently to withdraw the letter of termination of the agreement.

2. Learned counsel for the respondent, on instruction, would submit that only oral submission has been made by the petitioner and no such order exists as on date and the case of the petitioner would be considered in the proper perspective without any prejudice.
3. Considering the fair submission made by the respondent, the respondents are directed to decide the representation of the petitioner dated 23.02.2021 (Annexure P-20) within a period of two weeks. It is observed that this Court has not expressed any opinion on the merit of

this case. Since the petition is disposed of on the submission of the respondents, the petitioner shall have the liberty and reserves his right to claim the relief which are not been adjudicated herein as of now.

4. With the aforesaid observation, the petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge

Aks