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HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(C) No. 4242 of 2021

Gopal Sponge and Power Pvt. Ltd. having its registered office at I Floor, Plot No. 63 and 66, Phase - I, Mother Theresa W.N, 43, Jalvihar Colony, Raipur - 492001 Chhattisgarh, Through its Authorized Signatory Amal Kumar Choudhary, authorized signatory of Gopal Sponge and Power Pvt. Ltd., R/o Khamtarai, Raipur, Chhattisgarh

---- Petitioner

Versus

1. The Union of India, Through : The Secretary, Ministry of Coal, Nirman Bhawan, New Delhi.
2. Coal India Limited, a Maharatna Company, (Government of India Undertaking), Through Its General Manager (Marketing and Sales), Coal Bhawan, Marketing Directorate, Premises No. 04 MAR, Plot - AF-III, Action Area - 1A, New Town, Kolkata
3. South Eastern Coalfields Limited, (A Subsidiary Of Coal India Limited/ A Mini Ratna PSU), Through : Its General Manager (Marketing and Sales), Regd. Office - Seepat Road, Bilaspur Chhattisgarh - 495006
4. State of Chhattisgarh, Through : Its Secretary, Department of Industries, Directorate Of Industries, Udyog Bhawan, Ring Road No.1, Telibandha - Raipur Chhattisgarh
5. South Eastern Central Railways, Through Its Senior Divisional Operation Manager, Bilaspur, Chhattisgarh

---- Respondents

AND

W.P.(C) No. 4259 of 2021

Phil Ispat Pvt. Ltd., having its registered office at Shiv Mohan Bhawan, Jeevan Bima Marg, Pandri Raipur, 492001 Chhattisgarh, through its authorized signatory Amal Kumar Choudhary, authorized signatory of Phil Ispat Pvt. Ltd. R/o. Khamtarai, Raipur (Chhattisgarh)

---- Petitioner

Versus

1. The Union of India, Through : The Secretary, Ministry of Coal, Nirman Bhawan, New Delhi.
2. Coal India Limited, a Maharatna Company, (Government of India Undertaking), Through Its General Manager (Marketing and Sales), Coal Bhawan, Marketing Directorate, Premises No. 04 MAR, Plot - AF-III, Action Area - 1A, New Town, Kolkata
3. South Eastern Coalfields Limited, (A Subsidiary Of Coal India Limited/ A Mini Ratna PSU), Through : Its General Manager (Marketing and Sales), Regd. Office - Seepat Road, Bilaspur Chhattisgarh - 495006
4. State of Chhattisgarh, Through : Its Secretary, Department of Industries, Directorate Of Industries, Udyog Bhawan, Ring Road No.1, Telibandha - Raipur Chhattisgarh

5. South Eastern Central Railways, Through Its Senior Divisional Operation Manager, Bilaspur, Chhattisgarh

---- Respondents

For Petitioners	: Mr. Harshmander Rastogi, Advocate
For Respondent No.1	: Mr. Tushardhar Diwan, Advocate on behalf of Mr. R.K. Mishra, Asst. S.G.
For Respondent No.2 & 3	: Mr. Vaibhav Shukla with Mrs. Astha Shukla Advocates
For State-respondent No.4	: Mr. Rahul Jha & Mr. Ashish Tiwari, Govt. Advocates
For Respondent No.5	: Mr. Raj Kumar Gupta, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

01/11/2021

- Both the petitions have been brought praying for issuance of writ of mandamus or any other appropriate write to quash the impugned notice/ letters dated 25.07.2017, 28.07.2017, 08.05.2017, 31.07.2019 and 16.01.2020 holding them illegal, arbitrary and violative of fuel supply agreement dated 12.12.2018, scheme document dated 04.06.2018 and letter of intent dated 31.07.2018 and violative of fuel supply agreement dated 15.04.2017, scheme document dated 12.01.2017 and letter of intent dated 06.02.2017 respectively.
- It is submitted by the learned counsel for the petitioners that both the petitioners submitted their bids for purchase of coal through rail mode. Both the petitioners were declared successful in their bids subsequent to which letter of intent dated 31.07.2018 and 06.02.2017 were respectively issued to the petitioners. The fuel supply agreements were executed on 12.12.2018 and 15.04.2017 respectively on the terms agreed between the parties according to which, the winning premium remain constant through out and the mode of purchase of coal was to

be rail mode. It is submitted that by issuance of notices-cum-letter mentioned herein-above the petitioners are being directed to adopt mode of transport other than the rail mode and also for bearing additional cost. Subsequent to which, the respondents have unilaterally decided to step away from the winning premium as mentioned in the letter of intent and fuel supply agreement and have invited bids for supply through road mode. The petitioners in both the cases have made representation but the same have not been considered. Hence, it is submitted that these petitions may be disposed off with appropriate directions.

3. Learned counsel for the respondents opposes the submissions made, however, they have no objection, if the, petitions are disposed of with direction.
4. Considered on the submissions. These petitions are disposed off at motion stage. The petitioners in both the cases are granted liberty to file application/representation before the respondent No.1, 2 and 3 within a period of 15 days and when such application/representation is filed, the respondents No.1, 2 and 3 shall be obliged to consider on such representation and dispose of the same at the earliest within a period of 90 days from the date of this order.
5. With these observations, both the petitions are disposed off.

Sd/-
(Rajendra Chandra Singh Samant)
Judge