

07.11.2022
sayandeep
Sl. No. 03
Ct. No. 05

WPA 23905 of 2022

The West Bengal Power Development Corporation
Limited & Anr.

-Versus-

Union of India & Ors.

Mr. Abhrajit Mitra
Mr. Chayan Gupta
Mr. Sandip Dasgupta
Mr. Saaqib Siddiqui
Mr. Aviroop Mitra

.....for the petitioners

Mr. Bilwadal Bhattacharyya
Mr. Soumak Bera
Mr. Arijit Majumder

.....for the UOI

Mr. Om Narayan Rai
Mr. Piyas Choudhury

.....for the respondent No. 4

The first relief claimed by the petitioners is for a direction on the respondent Nos. 1 and 2 being the Nominated Authority, Ministry of Coal to act in terms of a representation made by the petitioners on 3rd November, 2022. The other prayers relate to a direction on the respondents to act in terms of the recommendations of the Scrutiny Committee constituted by the Ministry of Coal to the extent that the recommendations pertain to financial years 2019-2020 and 2020-2021. The petitioners also claim refund of Rs. 198 crores from the respondents for the reasons stated in the writ petition, the immediate apprehension, however, is that the respondents may invoke a bank guarantee for a further sum of Rs. 165 crores.

The Court is inclined to accept the submission made on behalf of the respondents that the petitioners made the representation at 4:30 p.m. on 3rd November, 2022 but filed the writ petition on 3rd November, 2022 itself.

Hence, the Court is not inclined to pass any peremptory directions or prohibit the respondents before the respondents are given opportunity to deal with and dispose of the representation. The respondent Nos. 1 and 2 shall accordingly consider and dispose of the representation made on 3rd November, 2022. The authorized representative of the petitioners shall be heard by the authorities in question and a decision shall be passed within three weeks from the date of the last hearing. The respondents shall also not take any precipitate actions against the petitioners without giving a fortnight's notice to the petitioners including in respect of the bank guarantee, if not already taken.

The point of alternative remedy taken by the learned Deputy Solicitor General under Section 27 of The Coal Mines (Special Provisions) Act, 2015 is not acceptable since earlier orders dated 18th August, 2018 and 12th October, 2018 by the same Tribunal as mentioned under Section 27 notes that the Tribunal is not equipped to deal with technical matters including mediation in a small district like Godda, in the State of Jharkhand. Hence, sending the petitioners to the

Designated Tribunal under the Act would not serve any purpose.

WPA 23905 of 2022 is accordingly disposed of.

Since affidavits have not been called for, allegations made in the writ petition are deemed not have been admitted.

(Moushumi Bhattacharya, J.)