



W.P.No.28389 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.28389 of 2022
and W.M.P.No.27691 of 2022

M/s.Ananthakumar and Co.,
Represented by its Managing Partner
A.Kalaiselvi, W/o E.Sivakumar
No.2/14th Street, Arul Jothi Nagar
Kattukkollai, Vadalur (PO)
Kurinjpadi Taluk, Cuddalore District.

.... Petitioner

-Vs-

- 1.The Chief General Manager
Unit Head, Mines-I-A
Neyveli Lignite Corporation India Ltd
Neyveli – 607 807.
- 2.The General Manager
Operations Mines-IA
Neyveli Lignite Corporation of India Ltd.,
Neyveli – 607 807.
- 3.The Chief General Manager
LA-R&R Department
Neyveli Lignite Corporation India Ltd.,
Neyveli-607 807.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the show cause notice bearing Lr.No.1215/CGM/MIA/Prodn/A009/Agt.12/21-22/2022 dated 12.09.2022 passed by the 1st respondent and quash the same.



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For Petitioner : Mr.M.Vijay Anand

For Respondents : Mr.N.Nithianandam, Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Certiorari calling for the records of the show cause notice bearing Lr.No.1215 / CGM/ MIA/ Prodn/ A009/ Agt.12/21-22/2022 dated 12.09.2022 passed by the 1st respondent and quash the same.

2. The impugned order dated 12.09.2022 is nothing but a show cause notice, under which the following has been asked for.

" 12. You are requested to furnish your reply within 10 days from the date of receipt of this letter and if no reply is received from your end it will be presumed that you are not having any explanation to offer and decision will be taken on merits.

13. However, this letter is issued without prejudice to the terms and conditions of the contract.

14. Kindly acknowledge the receipt of this letter."



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3. Challenging the said show cause notice, the petitioner has moved the present writ petition.

4. Heard the learned counsel for the petitioner. When this Court, at the first instance posed a question to the learned counsel for the petitioner as to why this writ petition has been filed challenging the show cause notice instead of giving a reply and to face the respondents, the learned counsel would contend that the petitioner even though is ready and willing to give a reply or has already given the reply, in the show cause notice itself the action proposed to be taken against the petitioner is pre-determined and therefore giving reply to the show cause notice is nothing but an empty formality and hence on that ground the petitioner has chosen to challenge the impugned show cause notice.

5. However, I am not impressed with the said submission made by the learned counsel for the petitioner because, admittedly this is a show cause notice, as the language used in the said notice only says that the petitioner has been requested to furnish reply within 10 days from the date of receipt of the notice and if no reply is received from the petitioner company, it can be presumed that the petitioner did not have any explanation to offer and decision will be taken on merits.



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6. Therefore, the decision is yet to be taken and the decision would be taken on merits only after the petitioner gives reply to the show cause notice and if the petitioner has not chosen to give its reply then only it will be presumed by the respondents that the petitioner does not have anything to give in reply and accordingly they will take a decision on merits.

7. Hence, in all aspects the impugned communication is only to be treated as a show cause notice for which, if the petitioner already has given reply the same can be considered by the respondents and an order can be passed. Otherwise, if no reply is given within a period of two weeks from today by the petitioner, it is open to the respondents to pass orders as proposed by them pursuant to the show cause notice thereafter on merits and in accordance with law.

8. At this juncture, it is brought to the notice of this Court by the learned Standing Counsel appearing for the respondents that, on 24.09.2022 the petitioner has given a reply. Apart from the said reply, if any further input is available with the petitioner, that can also be supplied to the respondents within a period of two weeks from today and based on which it is for the respondents to take a decision on merits and in accordance with law.



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9. With the above observations, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is also dismissed.

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Index : Yes/No

Internet : Yes/No

KST

Note : Issue order copy tomorrow (28.10.2022)

To

- 1.The Chief General Manager
Unit Head, Mines-I-A
Neyveli Lignite Corporation India Ltd
Neyveli – 607 807.
- 2.The General Manager
Operations Mines-IA
Neyveli Lignite Corporation of India Ltd.,
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R. SURESH KUMAR, J.

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