

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11032 of 2023

Eastern Coalfields Limited
Vs.
Union of India & Ors.

Mr. Manik Das
... For the petitioner.

Mr. Atarup Banerjee
Mr. Ayanava Raha
... For the respondent nos. 1 to 5.

Mr. Ayan Poddar
Ms. Khusboo Ruia
... For the respondent no.6.

1. The present writ application has been filed, *inter alia*, challenging the notices dated 6th March, 2023 and 17th April, 2023 issued by the Assistant Labour Commissioner (Central), Raniganj at Durgapur and the Deputy Chief Labour Commissioner (C), Asansol respectively.

2. It is the petitioner's case that the Ministry of Labour & Employment by issuing a notification in the Gazette of India dated 21st October, 2016, in exercise of power conferred by Section 36B of the Industrial Disputes Act, 1947 (hereinafter referred to as the "said Act") and upon the Central Government being satisfied, in relation to Coal India Limited and its subsidiaries that adequate provisions exist at the apex level, subsidiary level, area level and unit level, for the investigation and settlement of

Industrial Disputes in respect of workmen employed in the establishment, had exempted the Coal India Limited and its subsidiaries from the provision of Section 3 of the said Act, from the date of publication of the said notification in the Official Gazette.

3. With a view to apply for further exemption for constituting the works committee in the Coal India Limited and its subsidiaries. Coal India Limited had written to the subsidiaries to inform Coal India Limited the stand of the major functioning union as regards the constitution of works committee.

4. On the basis of the discussions held with the major functioning unions of Eastern Coalfields Limited, a resolution was adopted that since, grievances of the workers are resolved through the meeting of Joint Consultative Committee, Welfare Committee, Safety Committee and Housing Committee at Unit area and headquarters level there is no requirement for constitution of the Works Committee.

5. The Coal India Limited had since, on the basis of the aforesaid, by a communication in writing dated 27th January, 2020 had requested the Deputy Secretary, Ministry of Coal for further exemption from the provisions of Section 3 of the said Act regarding constitution of Works Committee, for a period of five years with effect from 21st October, 2018.

6. Pursuant to the aforesaid, by a office memorandum dated 13th February, 2020, the Deputy Secretary to the Government of India, Ministry of Coal, had forwarded the aforesaid request received from the Coal India Limited for grant of exemption to Coal India Limited and its subsidiaries from the provisions of Section 3 of the said Act for a period of five years with effect from 21st October, 2018, to the Ministry of Labour & Employment.

7. Mr. Das, learned advocate representing the petitioner submits that although the aforesaid application for grant of exemption is pending consideration, all on a sudden, the Assistant Labour Commissioner (Central), by a communication in writing dated 6th March, 2023, had advised the petitioner to submit complete details of establishments working under their control, by noting that the petitioner had failed to comply with the provisions of Section 3(1) and Section 9C of the said Act. Since, the petitioner's application for exemption is pending, by a communication in writing dated 4th April, 2023 the petitioner had apprised the said fact to the Assistant Labour Commissioner (Central) and as such, had requested the Assistant Labour Commissioner (Central) not to proceed with the said notification dated 6th March, 2023, until a decision is taken in the matter as regards the exemption as prayed for.

8. By drawing attention of this Court to a letter dated 17th April, 2023, Mr. Das, submits that notwithstanding receipt of the aforesaid letter, the Deputy Chief Labour Commissioner has been insisting that constitution of Works Committee under Section 3 of the said Act is a statutory obligation and cannot be substituted by any other Committee. By the aforesaid letter, the petitioner had been threatened with legal action if steps are not taken by the petitioner for compliance of the provisions of Section 3 of the said Act.

9. Mr. Das submits that the aforesaid actions on the part of the respondents are high-handed. Admittedly, the petitioner had been granted exemption under Section 36B of the said Act. The subsequent application, which has been vetted through the Ministry of Coal, is pending consideration. Without deciding on the same, the respondents are insisting for compliance of Section 3 of the said Act. The aforesaid action is illegal to say the least. He prays for a direction upon the respondent no.2 to immediately decide upon the petitioner's application and pending such decision not to initiate any legal action against the petitioner.

10. Mr. Poddar, learned advocate representing Coal India Limited supports Mr. Das's contention.

11. Mr. Banerjee, learned advocate representing the

respondent nos. 1 to 5, submits that the petitioner is a juristic entity and ordinarily an application for exemption ought to have been filed by the petitioner. He submits unless, the petitioner individually applies, it is very difficult for the respondents to consider the application for exemption. He, however, does not dispute the fact that the application for exemption dated 27th January, 2020 made by the Coal India Limited seeking exemption under Section 36B of the said Act, on behalf of itself and its subsidiaries which has been routed through the Ministry of Coal has not yet been disposed of.

12. Heard the learned advocates appearing for the respective parties and considered the materials on record. Having regard to the fact that the aforesaid application for exemption dated 27th January, 2020, has not yet been disposed of and taking into consideration the fact that the exemption had already been granted by publishing a notification dated 21st October, 2016 in the Official Gazette under Section 36B of the said Act, to Coal India Limited and its subsidiaries from the provisions of Section 3 of the said Act, for a period of two years, I am of the view that the respondents ought to have disposed of the application dated 27th January, 2020 made by Coal India Limited, prior to insisting for compliance of Section 3 of the said Act.

13. In the said conspectus, I direct the respondent no.2,

to dispose of the aforesaid application for exemption under Section 36B of the said Act in respect of Coal India Limited and its subsidiaries from the provisions of Section 3 of the said Act within a period of 8 weeks from the date of communication of this order.

14. It is made clear that till such time the decision is reached, no coercive steps shall be taken against the petitioner.

15. As regards setting up of Grievance Redressal machinery is concerned since, the respondent no.3, upon receiving the petitioner's representation by its letter dated 17th April, 2023, had not sought for implementation thereof, such issue is kept open to be agitated by the petitioner in appropriate proceedings, if occasion so arises.

16. With the aforesaid observations/directions the writ petition stands disposed of.

17. There shall, however, be no order as to costs.

18. Since no affidavit-in-opposition has been called for, the allegation made in the writ application are deemed not to have been admitted by the respondents.

19. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of necessary formalities.

(Raja Basu Chowdhury, J.)