

Sl.No.2
Court
No. 11
G.S.Das

12.05.2023

MAT 799 of 2023
With

CAN 1 of 2023

Eastern Coalfields Limited
-Vs-
Rabindra Nath Roy & Ors.

Mr. Debnath Ghosh
Mr. Biswaroop Bhattacharya
Mr. Debabrata Das
Mr. Puspall Chakraborty
Mr. Saptarshi Mukherjee

... for the Appellants/ECL

Mr. Bikash Ranjan Bhattacharya
Ms. Joyee Maity

... for the Respondents/writ petitioners

Mr. Arunabha Sarkar

... for the respondent no.14

Mr. Debapriya Gupta

... for the respondent no.22

Party/Parties is/are represented in the order of
their name/names as printed above in the cause title.

Under challenge in this appeal is the interim order dated 2nd May, 2023 of the Hon'ble Single Bench passed in the two writ petitions being, WPA 7708 of 2016 and WPA 7995 of 2016. This Court is informed that WPA 7995 of 2016 stands dismissed for default. Therefore, only WPA 7708 of 20216 survives for consideration, although both the writ petitions carry the same cause-of-action.

By the said impugned Order the Hon'ble Single

Bench was pleased to take judicial notice of the issues raised by the writ petitioners who are the teachers of the Schools-in-issue managed on the basis of Grants-in-aid disbursed by the respondents/Eastern Coal India Limited (for short, ECL).

The Hon'ble Single Bench took further judicial notice of the fact, on the basis of a Report of a Learned Special Officer as appointed by the Hon'ble Single Bench, that a total number of 19 schools are operating under the Grants-in-aid.

In view of the Report submitted by the Learned Special Officer that the teachers of the Schools-in-issue are suffering from financial deprivation although the said schools are physically functional with students, the Hon'ble Single Bench directed the respondents/ECL to deposit a sum of Rs. Six lakhs with the Learned Registrar-General of this Court as an interim measure.

Mr. Ghosh, Learned Senior Counsel appearing on behalf of the appellants/ECL, submits that the Hon'ble Single Bench failed to take judicial notice of the pronouncement of the Hon'ble Supreme Court in a decision reported in *(2014) 6 SCC 756, in the matter of National Aluminium Company Limited (NALCO) and Ors.-vs- Ananta Kishore Rout and others.*

Referring to Paragraphs 20, 21, 22, 23, 24 and 26 of the said Report, Mr. Ghosh submits that the

respondents have no right to claim an 'employer-employee' relationship connected to their engagement as teachers in the said schools, a situation being *pari materia* to Schools under NALCO as discussed in (2014) 6 SCC 756 (*supra*).

Next, Learned Senior Counsel draws the attention of this Court to the prayers in the writ petition filed by the present respondents to this appeal/the writ petitioners, to the effect that the writ petitioners have prayed for issuance of a Writ of Mandamus commanding ECL to treat them as employees of its parent Company, *viz.* Coal India Limited (*CIL*) and to disburse their regular salaries.

Learned Senior Counsel points out that a concurrent Hon'ble Single Bench of this Court had earlier directed by Order dated 7th November, 2016 in one of the writ petitions, being WPA 7708 of 2016 (*supra*), that the issues raised by the writ petitioners are required to be examined on Affidavits. It is contended that the present Hon'ble Single Bench, without examining the issues on Affidavits had proceeded to pass the interim order directing ECL to deposit the sum of Rs.6 lakhs, although the prayers as made in the writ petition could not be sustained in law.

On behalf of the respondents/the writ petitioners, Mr. Bikash Ranjan Bhattacharya, Learned Senior Counsel, appears and points out that the

Hon'ble Single Bench has not determined and/or adjudicated any of the rights of the parties. Accordingly, deposit of the sum of money has been only directed by the Hon'ble Single Bench as an interim measure prior to further examination of the issues raised in the writ petition.

Learned Senior Counsel therefore takes the position that the Order impugned cannot be termed to be a Judgment within the meaning of Clause 15 of the Letters Patent.

Reliance is also placed by Mr. Bhattacharya on a Judgment of this Hon'ble Court reported in *(2009) 1 CLJ (Cal) 237 in the matter of Coal India Limited & Ors. –Vs- Mahadev Banerjee & Ors.* By the said Judgment, Learned Senior Counsel points out that the teachers working in the Schools-in-issue set up by CIL were held to be entitled to be treated as employees of Schools set up by CIL, being in the nature of a Government undertaking.

Having heard the parties and closely considering the materials placed, this Court finds that the Order impugned dated 2nd May, 2023 directing ECL to deposit a sum of Rs. 6 lakhs has the effect of proceeding to determine the financial obligations of ECL *qua* the nineteen schools which receive Grants-in-aid, which in turn provides for the sustenance of the teachers.

While arguably, based on the decision in *NALCO*

(*supra*), ECL may contest the claim of the writ petitioners for establishing an employee-employer relationship with its additional argument that ECL has withdrawn its representatives from the Managing Committees of the said Schools, at the same time ECL cannot wriggle out of its binding obligation to keep providing the Grants-in-aid regularly month by month.

This Court finds that the Hon'ble Single Bench is correctly concerned with the fact that the teachers have not received their regular remuneration on and from November, 2022 and hence ECL is required to make a clear disclosure of the status of disbursement of its Grants-in-aid.

Furthermore, with basic education being declared as a constitutional right under the Right of Children to Free and Compulsory Education Act, 2009, the Hon'ble Single Bench can exercise jurisdiction to find out any violation of its constitutional obligations by ECL, being a state within the meaning of Article 12 of the Constitution of India.

This Court at this juncture also notices that in spite of the argument advanced by Learned Senior Counsel for ECL that the Court cannot travel beyond the prayers made in the writ petition which is for establishing an employer-employee relationship, this Court at the same time finds that *Prayer K) of WPA 7708(W) of 2016* reads as follows:

“k) to pass further interim order restraining the respondents, their agents and associates from stoppage of the monthly salary from the Grant-in-aid as per the circular dated 23.06.2011 to the petitioner till the disposal of the case.”

Before parting with this discussion, it must be also noticed that the Learned Special Officer appointed by the Hon'ble Single Bench found the nineteen schools to be operational, contrary to the findings of the internal Vigilance Department of the ECL. In such view of the matter it is appropriate for the Hon'ble Single Bench to open the adjudication for deeper examination by passing appropriate interim orders. *Prima facie*, in the view of this Court, the Hon'ble Single Bench may invite an independent audit of the regular allocation and disbursal of the Grants-in-aid.

For the above reasons, no interference is called for in the interim order of the Hon'ble Single Bench dated 2nd May, 2023. The matter returns to the Hon'ble Bench to be further considered on merits.

MAT 799 of 2023 along with **CAN 1 of 2023** stand accordingly **disposed of**.

Parties are permitted to approach the Hon'ble Single Bench for extension of time to make the deposit in terms of the Order dated 2nd May, 2023.

Affidavit-of-service filed be retained with the

record.

All parties to act on a server copy of this order duly obtained from the official website of the Hon'ble High Court, Calcutta.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Supratim Bhattacharya, J.)

(Subrata Talukdar, J.)