

ORDER SHEET

WPO/463/2018
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

MANOHAR BAURI AND ORS.
VS
EASTERN COALFIELDS LTD AND ORS

BEFORE:
The Hon'ble JUSTICE RAI CHATTOPADHYAY
Date: 8th April, 2024.

Ms. Ajeya Mitra, Adv.
Ms. Srijani Das, Adv.
...for the petitioner

The Court: The writ petitioners are the land-losers. According to the policy of the respondent Eastern Coalfields/respondent no. 1, the writ petitioners get compensation by receipt of coal of appropriate amount. Vide letter dated 7th September, 2000, the General Manager, Mugma area/respondent no. 5 allowed disbursement of total 10400 metric tons of coal to the land-losers as compensation. The writ petitioners being one of them, was entitled to 9600 metric tons of coal for 12 acres of land.

The writ petitioners have lifted 610 metric tons of coal pursuant to the sanction granted by the General Manger, Mugma Area/ respondent no. 5 vide letter dated 7th September, 2000, against notified price. However, since thereafter, in spite of the sanction of the General Manager, Mugma area vide letter dated 7th September, 2000 being in vogue, they were not allowed to lift the rest of the coal as sanctioned to them. The respondent Authorities have cited reasons that the production of coal was short due to heavy rain and

accordingly supply of coal to the core sector was the first preference than to any of the land-losers, since thereafter.

The writ petitioners waited after perceiving the gravity of the situation. However, the situation for them did not change even after a considerable period of time. Hence due to such longstanding silence and inaction on the respondent Authorities to allow them to lift rest amount of compensatory coal, they have moved this Court, not once but thrice since then. Each time they have moved the High Court, the writ petitioners got suitable order from the Court and direction was given to the respondent Authorities to have their representation heard and disposed of and/or to supply coal to them in terms of the allotment order without making any discrimination so far as other similarly circumstanced land-losers are concerned (order dated 20th April, 2001 in WP 3297 of 2000).

The grievance of the writ petitioners in this case is that in spite of such specific direction of the Court back in the year 2001, they have not been allowed to lift coal in terms of the said allotment order dated 7th September, 2000. In this writ petition, the writ petitioners have prayed for an order directing the respondent Authorities to release balance quantity 8990 metric tons of Grade “D” steam coal from Mugma Area as per the land-losers scheme.

Ms. Ajeya Mitra is appearing for the writ petitioner. No one is representing the respondent Authorities. No affidavit-in-opposition is available in the record, though affirmed. Ms. Mitra assists the Court by supplying a photocopy of the affidavit in opposition, affirmed by the

concerned respondents. Since none appeared for the respondents, this case is taken up for adjudication and order, in absence of the respondents.

The respondent Authority seems to have inter alia taken the three major points in objection. They say firstly, that the present writ petition is not to be allowed due to inordinate delay in filing the same. They have stated secondly, that the colliery being not within the territorial jurisdiction of this High Court, the writ petition would not be maintainable before this High Court. The final point of objection of the respondent Authority regarding the present writ petition is subsequent change of policy regarding disbursement of compensation in the form of coal to the land-losers. The points are taken note of.

On perusal of the records as well as considering the submissions made on behalf of the writ petitioners before this Court, the following facts emerged. That the writ petitioners' land was acquired by the respondent Authorities for colliery purposes. As a compensatory measure they were allowed vide sanction order dated 7th September, 2000, to lift 9600 metric tons of coal for 12 acres of acquired land. After lifting 610 metric tons of coal, they were restrained to do the same any further. It appears from record that the sanction order dated 7th September, 2000 has never been cancelled. Accordingly, pursuant to the same, the right of the writ petitioners subsists to receive the balance amount of coal as a compensation of land.

On perusal of records it is further revealed that, time and again this Court has directed the respondent Authorities categorically to supply the said amount of coal to the writ petitioners without any discrimination to the

other similarly circumstanced land-losers. However, there is no denial and dispute as regards the fact regarding non-receipt of the sanctioned balance amount of coal, by the present writ petitioners.

As discussed earlier, this is the fourth round of litigation by the present writ petitioners, to claim their compensation, as above. Thus, the reason for delay, by merely perusing the date of filing of this writ petition, could not have been properly assessed or understood. However, taking into consideration the facts that the present is the fourth round of litigation between the parties, the reason for delay should be well conceivable. Though, the respondent authority did not care about the Court's order and has remained torpid, till date.

The situs of the concerned colliery is at Jharkhand. This has prompted the respondent authorities to take a point as regards the maintainability of this writ petition before this Court. Article 226 has provided that the High Court shall have its extraordinary power of issuance of prerogative writs, within its territorial jurisdiction. A careful perusal of the relevant record in this case would suggest that inspite of the situs of the concerned colliery being at some other state, that is the State of Jharkhand, the administrative control of the functioning of the said colliery has always been vested in the office situated in Kolkata, that is within the territorial jurisdiction of this Court. On consideration of the relevant records reveal the facts in the above manner, this Court is of the opinion that the jurisdiction of this Court cannot be ousted outrightly, on the ground of the concerned colliery be situated outside the State of West Bengal.

The respondent authorities in the said affidavit has taken up the other point of objection regarding change of policy subsequent to issuance of its order dated 7th September, 2000, to sanction compensation of specified amount of coal, to the land losers including the present writ petitioners. Needless to mention that, any subsequent change of policy having no retrospective effect to negate grant of sanction as per any previous policy decision of the authorities, shall not be of any relevance to such grant of a sanction. Delay in implementation of the decision based on a policy prevalent at the time of acquisition of land should not allow the respondents to reap benefit out of it on the ground of subsequent change in policy, before the earlier decision is implemented. In other words, such a situation should not be allowed to be utilized against the beneficiaries of the earlier decision, even if the same is not implemented, even after sufficient period of time and coming into force of the new policy in supersession of the earlier policy. This would amount to defeat of the right of the beneficiaries which had accrued upon acquisition of their land. It has already been stated that the sanction order granted vide letter dated 7th September, 2000, in favour of the land losers including the writ petitioners, has never been revoked. This would prompt this Court to find that permission granted to the writ petitioners vide letter dated 7th September, 2000, shall remain operative, irrespective of any change in policy of the respondent authorities, as regards the same matter. All these grounds of objection taken up by the said respondent authority as regards the maintainability and merits of the instant writ petition, thus, have been found to be unsustainable.

On considering the facts and circumstances as above, it appears that in spite of the sanction order dated 7th September, 2000 being in vogue, to restrain the writ petitioners to lift the adequate amount of coal which was sanctioned to them as compensation for acquired land is not maintainable and illegal.

Earlier also, this Court had directed for release of such coal to the writ petitioners. But the same is yet to be complied with, the reasons being best known to the respondent authorities. The reasons shown for stoppage of lifting coal by the petitioners was heavy rain in the locality for which an adequate amount of coal could not be lifted and the area for disbursement of whatever amount of coal could be lifted, had to be prioritized. There is no record to show that the reason as above had been persistent any further. The Court finds no reasonable ground to disallow the writ petitioners, to receive compensation for the acquired land, which was earlier owned by them. On the other hand, respondent's inaction is unexplainable, unreasonable and is violating its own order dated 7th September, 2000.

Accordingly, the present writ petition is allowed and disposed of with the direction as follows :

- (i) The respondent Authorities/respondent no. 1 shall immediately release the balance quantity of 8990 metric tons of Grade "D" steam coal from Mugma Area, in favour of the present writ petitioners.

- (ii) The exercise as above should commence within a period of three weeks from the date of communication of this order to the said respondent Authority.

The writ petition being WPO 463 of 2018 is disposed of accordingly.

(RAI CHATTOPADHYAY, J.)

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