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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 28th March, 2024***

+ W.P.(C) 4621/2024 & CM APPL. 18945/2024 & CM APPL. 18946/2024 & CM APPL. 18947/2024

CHOWGULE AND COMPANY PRIVATE LIMITED Petitioner

Through: Mr. Ninab Laud with Mr. Anjuman Tripathy, Mr. Himanshu Bansal and Mr. Charavardhan Singh, Advocates.

versus

UNION OF INDIA AND ANR

..... Respondent

Through: Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Mr. Varun Rajawat, Mr. Kartik Baijal and Ms. Shreya V Mehra, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The present petition has been filed under Article 226 of the Constitution of India seeking issuance of an appropriate writ with the following prayers:

a. Issue appropriate writ/order/direction to stay the effect and operation of the order dated 27.03.2024 (Annexure P-1) passed by the Respondent No.2, till such time that the Tribunal under the (COAL BEARING AREAS (ACQUISITION AND DEVELOPMENT) ACT, 1957 considers and decides the application of the Petitioner.

b. Restrain the Respondents from taking any decision in pursuance of the Impugned order dated 27.03.2024 (Annexure P-1) passed by the Respondent No.2.

2. Petitioner has approached this Court challenging the order dated 27.03.2024 passed by the Nominated Authority.



3. Para 10,11 and 12 of said order reads as under:

“10. Accordingly, the Nominated Authority, hereby directs for appropriation of an amount of ₹ 10,48,64,922.47/- (Ten Crores Forty-Eight Lakhs Sixty-Four Thousand Nine Hundred Twenty-Two Rupees and Forty-Seven Paise Only) from the Performance Bank Guarantee No 0411622BG0000050 dated 16.06 .2022 issued by State Bank of India, Vascodagama Branch, in reference to the CMDPA.

11. Upon appropriation as mentioned in paragraph 10 above, you are also advised to top-up the Performance Bank Guarantee to the required 100% within fifteen Business Days of receipt of this order in compliance with Clause 6. 3. 3 of the CMDP A. Failure to do so shall be a ‘Termination on Event’ for the purposes of Clause 26 in accordance with which the Nominated Authority shall be at liberty to terminate the CMDPA.

12. Attention is invited to Section 27 of the Coal Mines (Special Provisions) Act, 2015 providing for adjudication by the Tribunal constituted under the Coal Bearing Areas (Acquisition and Development) Act, 1957. For the instant Coal Mine the Tribunal situated at Singrauli, Madhya Pradesh shall have jurisdiction.”

4. The petitioner has contended he had, in terms of direction earlier given by this Court on 25.01.2024 passed in WP(C) 1139/2024, submitted a detailed representation but there is not even a whisper respect to his such representation, being considered in any manner whatsoever.

5. However, at the same time, learned counsel for the petitioner submits that his limited prayer to this Court is to grant him reasonable time so that he can approach the concerned Tribunal under the Coal bearing areas (Acquisition and Development) Act, 1957 for appropriate relief and remedy.

6. The legal position has not been disputed even the learned counsel appearing for respondent who, very fairly, admits that the petitioner does have a remedy under Section 27 of Coal Mines (Special Provisions) Act, 2015.

7. The attention of the Court has also been drawn towards one order



passed by the coordinate Bench of this Court dated 10.11.2023 in WP(C) 14742/2023. In that particular case, the representation of the said petitioner was rejected and the petitioner had apprehended that the agreement would be terminated because the petitioner would be otherwise forced to top up the bank guarantee. In the similar situation, this Court had granted time to the said petitioner to file appropriate application before the concerned Tribunal within a period of two weeks.

8. During course of the arguments, learned counsel for the petitioner reiterates that he has no intention to cause any delay whatsoever and would approach the Tribunal as expeditiously as possible and not later than 10 days from today. He does not press for any other relief and prays that the petition may be also disposed of accordingly.

9. In view of the aforesaid, the present writ petition is disposed of with the following directions:-

- 1) The petitioner is at liberty to file application before the concerned Tribunal within a period of 10 days from today.
- 2) Learned Tribunal would be at liberty to decide such application in accordance with law.

10. As a necessary corollary so as to enable the petitioner to approach the Tribunal and to seek appropriate relief, the Union of India is restrained from giving effect to the impugned order dated 27.03.2024 for 10 days from today.

11. Order *dasti* under the signatures of the Court Master.

MANOJ JAIN, J

MARCH 28, 2024/sw



Signature Not Verified
Digitally Signed
By:SONIA TAPLIYAL
Signing Date:28.03.2024
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