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

+ LPA 98/2017, CM Nos.4875/2017 & 12062/2017

JINDAL STEEL & POWER LIMITED & ANR Appellants

Through: Mr. Dayan Krishnan, Sr. Adv. with Mr.
Aakash Bajaj, Mr. A. Kumar, Ms. Arushi
Yadav, Mr. Aniket Kumar, Mr. Dinesh &
Mr. Shivans, Advs.

Versus

MINISTRY OF LABOUR AND EMPLOYMENT & ORS... Respondents

Through: Ms. Aishwarya Bhati, ASG with Mr.
Karan Singh Bhati, Adv. for R-3.

AND

+ LPA 99/2017 CM APPL. 4878/2017 CM APPL. 4949/2017

JINDAL STEEL & POWER LIMITED & ANR Appellants

Through: Mr. Dayan Krishnan, Sr. Adv. with Mr.
Aakash Bajaj, Mr. A. Kumar, Ms. Arushi
Yadav, Mr. Aniket Kumar, Mr. Dinesh &
Mr. Shivans, Advs.

Versus

UNION OF INDIA & ORS Respondents

Through: Ms. Aishwarya Bhati, ASG with Mr.
Karan Singh Bhati, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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02.04.2024

1. The appellants have filed the present intra-court appeals impugning the common judgment dated 24.01.2017 (hereafter *the impugned judgment*).

2. Mr. Dayan Krishnan, learned senior counsel appearing for the appellants submits that in view of further development, the appellants are not assailing the impugned judgment save and except the directions as set out in paragraph 43 of the impugned judgment. The said paragraph is set out below:

“43. The fact however remains that under interim orders in these petitions, the petitioner No.1 JSPL has continued to dump fly ash in



the mining voids to which it has not been able to establish any right. The said dumping of fly ash by the petitioner No.1 JSPL in the said voids, under interim orders, was thus in violation of the rights of the respondents. The Court, while disposing of matter finally, is required to balance the equities flowing from interim orders. It has been the contention of the senior counsel for CIL and SECL that dumping of fly ash by the petitioner No.1 JSPL under interim orders was interfering with the mining operations and otherwise detrimental to the interest of CIL and SECL. Per contra, the petitioner No.1 JSPL obviously benefited therefrom, having not been required to dispose of fly ash otherwise and which would have been at a cost. The parties have to be restituted. There is however no material before this Court to assess the advantage/benefit drawn by the petitioner No.1 JSPL from the interim orders and the loss if any caused to CIL and SECL therefrom. Liberty is thus granted to CIL/SECL to, if so desire and have suffered any loss, within three months herefrom, make a claim therefor by way of application in W.P.(C) No.3398/2015 and which application, if filed, shall be considered on its own merits.”

3. He submits that the appellants had not dumped the fly ash under any interim orders passed by the Court but in accordance with the notification issued by The Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India. He submits that the observations made in paragraph 43 of the impugned judgment are premised on the assumption that the appellants were required to dispose of fly ash otherwise than by filling in the voids. He submits that the import of directions issued by the learned Single Judge is that it would confine the examination only to the quantum of loss suffered and would preclude the appellants from contesting the claim of costs and damages on merit. He also submits that the same may not be feasible by way of an application in a writ petition.

4. Pursuant to the liberty granted by the learned Single Judge, an application for restitution and recovery of damages has already been filed by Coal India Ltd.

5. It is apparent that there are several contentious issues that may arise in respect of any claim for restitution or damages as made in terms of paragraph 43



of the impugned judgment. It also appears that rival contentions in this regard have not been heard on merits.

6. Ms. Aishwarya Bhati, learned ASG appearing for respondent no.3 fairly states that to put a quietus to this controversy, Coal India Ltd. may be permitted to proceed with the application while reserving all rights and contentions of the parties including in regard to the entitlement to the claims as well as the merits and the quantum of the claim.

7. Mr. Dayan Krishnan is also agreeable to this course.

8. The suggestion made also commends to this Court.

9. In view of the above, we dispose of the present appeal by clarifying that insofar as the directions relating to recovery of damages and loss is concerned, all rights and contentions of the parties are reserved. The learned Single Judge shall examine all facets of the claim on its own merits.

VIBHU BAKHRU, J

SHALINDER KAUR, J

APRIL 02, 2024

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Click here to check corrigendum, if any