24.03.2025
Item No.3+4
Ct. No.01
RP/SM

<u>MAT 1904 of 2024</u>
+
IA No.CAN 1 of 2024

The Chairman-cum-Managing Director, Eastern Coal Fields Limited
Vs.
Ashok Kumar Mukherjee & Ors.

With

MAT 57 of 2025
+
IA No.CAN 1 of 2025
CAN 2 of 2025

General Manager, ECL (LRE)
Vs.
Ashok Kumar Mukherjee & Ors.

Mr. Debnath Ghosh, Sr. Adv.
Mr. Syed Nurul Arefin
Mr. Bijoy Kumar
Mr. Syed Moyeenul Arefun
....For Appellants

Mr. Krishnendu Banerjee
Mr. Pranab Halder
Mr. Md. Idrish
...For Respondents

1. The appeal, being MAT 1904 of 2024, has been filed by the Eastern Coal Fields Limited challenging the order dated 23rd August, 2024 passed by the learned Single Bench in RVW 126 of 2024 filed in connection with WPA 6249 of 2022. MAT 57 of 2025 has been filed by the Eastern Coal Fields Limited challenging the order dated 21st February, 2024 passed in WPA 6249 of 2022.

2. We have perused the averments made in the application for condonation of delay, being CAN 1 of 2025, filed in connection with filing of the appeal being MAT 57 of 2025. We are satisfied that sufficient causes are pleaded in the application for delay for filing the appeal. Accordingly, delay is condoned and CAN 1 of 2025 is allowed.
3. The case of the writ petitioners is that they are land losers as their lands were taken by the Eastern Coal Fields Limited for its coal mining and in terms of the scheme which was prevalent at the relevant time the land losers were entitled to specific quantity of coal for which they have to deposit the value within a time frame. The case of the writ petitioners was considered and the Eastern Coal Fields Limited passed an order on 28th September, 2000 releasing 5728 M.T. of Steam Coal. The order also states that release of such Steam Coal will be on the basis of free consignee and free destination. Bank drafts are to be issued on local Banks and only after proper verification by the Finance Department, the Delivery Order may be issued. The validity period of lifting the coal and depositing the coal value will be one year from the date of issue of this allocation letter. Therefore, in terms of the said letter the writ petitioners ought to have deposited the coal value within a period of one year, which expired on 28th

September, 2001. In the interregnum the writ petitioners had deposited the coal value for 300 MT of coal out of 5728 MT of coal on 9th October, 2000. Admittedly, the writ petitioners did not remit the coal value for remaining quantity of coal within a period of one year as stated in the letter dated 28th September, 2000. In the year 2022 WPA 6294 of 2022 was filed before this Court seeking to enforce the said order praying for issuance of a writ of mandamus to direct the Eastern Coal Fields Limited to release balance quantity of 5707 MT and 40 Kg of coal in favour of the petitioner. The learned Single Bench had granted releif as sought for by the writ petitioners. Eastern Coal Fields Limited filed a review application against the order passed by the learned Single Bench on several grounds and pointed out that as early as in the year 1930 the predecessor of the writ petitioner one Sri Haripada Mukhopadhyay had sold the land in favour of Sjt Kunj Bihari Chandra and others by a registered deed of sale dated 6th November, 1930 registered as Deed No.3352 dated 6th November, 1930 on the file of the Registrar, Dhanbad. This fact appears to have not within the knowledge of Eastern Coal Fields Limited and subsequently they came to know of it and this issue was placed on the record in the review application. Apart from that certain other points were also raised in the review application. However, the grounds raised in the review application did not find favour of the learned Single Bench and the review application was dismissed. Thereafter, the writ petitioner filed a contempt petition, which is now pending before the learned Single Bench.

4. Following facts persuade us to interfere with the order passed by the learned Single Bench. Firstly, the writ petitioner earlier had filed three writ petitions, which were all dismissed. This fact appears to have not been specifically placed on record. The first of the said three writ petitions is WP No.27539 (W) of 2007, which was dismissed by order dated 11th March, 2008 on the ground that this Court does not have territorial jurisdiction to deal with the subject matter as the land in question is situated in Dhanbad, Jharkhand. This order had attained finality. Thereafter, another writ petition was filed, namely, WP No.1638 of 2010, which was dismissed by order dated 17th November, 2011. The third writ petition, namely, WP 939 of 2016 was dismissed by order dated 26th September, 2016 on the ground that this Court does not have territorial jurisdiction to decide the claim of the petitioner. In such situation the question of entertaining the fourth writ petition for the selfsame relief or for the same cause of action would not arise. Apart from that, the

Court has taken note of the fact that as to whether the order which is in the nature of concession granted to the petitioner by way of allocation of coal dated 28.09.2000 can be directed to be implemented for the balance quantity of coal after more than 24 years. The answer to this question may be a definite 'No' since the coal allocation policy had undergone a change pursuant to the direction issued by the Hon'ble Supreme Court in the case of Manohar Lal Sharma vs. Principal Secretary & Ors. reported in (2014) 9 SCC 516. In the said judgment the Hon'ble Supreme Court took note of the earlier judgment dated 25th August, 2014 wherein the Hon'ble Supreme Court held that the allocation of coal blocks during the period concerned was illegal and arbitrary and the consequences were left open and were decided in the present judgment. The Hon'ble Supreme Court pointed out that while transferring or alienating natural resources, the principle that the State is duty bound to adopt the method of auction is confined to the specific case of spectrum and not for dispensation of all natural resources. Auction despite being a more preferable method of alienation/allotment of natural resources cannot be held to be constitutional requirement or limitation for alienation of all natural resources and, therefore, every method other than auction cannot be struck down as ultra vires the constitutional mandate. Auction as a mode cannot be conferred the status of a constitutional principle. Alienation of natural resources is a policy decision and the means adopted for the same are, thus, executive prerogatives. It was further held that if the allocation of subject coal blocks is inconsistent with Article 14 of the Constitution and the procedure that has been followed in such allocation is found to be unfair, unreasonable, discriminatory, non-transparent, capricious or suffers from favouritism or nepotism and violative of the mandate of Article 14 of the Constitution, the consequences of such unconstitutional or illegal allocation must follow. The Hon'ble Supreme Court further held that the entire allocation of coal blocks as per the recommendation made by the Screening Committee from 14.07.1993 in 36th meetings and the allocation through the Government Dispensation Route suffer from the vice of arbitrariness and legal flaws. Now the question of seeking implementation of that order would not arise. In fact, this made known to the petitioner by addressing his advocate by letter dated 19th February, 2002 by the Eastern Coal Fields Limited. Apart from that, if the allocation order fixes a time limit in absence of any extension. Therefore, the question of same remaining to be continuously valid could not arise merely because the petitioner sending letters and maintaining correspondences with the appellant Eastern Coal Fields Limited cannot revive a stale claim, which ultimately stood expired in the year 2001. Apart from that when the Court issues a writ of mandamus there may not be a direction against the policy framed by the Central Government which policy came to be framed pursuant to the direction issued by the Hon'ble Supreme Court. Therefore, we have no hesitation to hold that the prayer sought for by the writ petitioner was not maintainable and the claim is a stale claim and the question of issuing a mandamus for allocation of the balance quantity of coal is not feasible of consideration.

5. For the above reasons, the appeals and the connected applications are allowed and the order passed by the learned Single Bench impugned in these appeals are set aside. From the communication sent by the Eastern Coal Fields Limited dated 5th January, 2022 which is an internal communication within the departments it is seen that a sum of Rs.68938.66 is lying in the account of Chapapur II Colliery. The appellant being a public sector undertaking should be a fair and reasonable to the respondent-writ petitioner. Therefore, we direct the appellant to refund the sum of

Rs.68,938.66 paisa to the respondent/writ petitioner together with simple interest at the rate of 8% per annum from date on which the amount was remitted by the respondent/writ petitioner i.e. 9th March, 2000. The appellant shall ascertain the correct date of payment as the interest shall be payable from the said date till the date of actual payment to the respondent/writ petitioner. This direction be complied with by the appellant within a period of three weeks from the date of receipt of the server copy of this order.

[T.S. SIVAGNANAM]
CHIEF JUSTICE

[CHAITALI CHATTERJEE (DAS), J.]