

Common Cause Vs. Union Of India .

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Court : Supreme Court of India

Decided On : Jan-06-2021

Appeal No. : W.P.(C) No.-000114-000114 - 2014

Appellant : Common Cause

Respondent : Union Of India .

Advocate for Pet/Ap. : PRASHANT BHUSHAN ____

Judgement :

IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION
INTERLOCUTORY APPLICATION NOS.131281 and 131288 OF 2019 AND
INTERLOCUTORY APPLICATION NOS.179704 OF 2018 & 54364 OF 2019 AND
INTERLOCUTORY APPLICATION NO.150858 OF 2019 IN WRIT PETITION
(CIVIL) NO.114 OF 2014 COMMON CAUSE Petitioner (s) VERSUS UNION OF
INDIA & ORS. Respondent (s)

ORDER

I.A. Nos. 131281 and 131288 of 2019 1. These applications praying respectively for: (i) intervention in the main matter; and (ii) direction to the State to permit the applicant to sell off the undisposed stock and for issuance of transfer permits for the removal of ore from the leasehold areas, are taken out by a person claiming to be the 1 legal heir and power of attorney agent of the deceased mining leaseholder.

2. Heard the learned counsel for the applicant, the learned counsel for the State of Odisha, the learned Amicus Curiae and the learned Counsel for the writ petitioner.
3. The claim of the applicant is that one Mr. Suresh Chandra Padhee was the mining leaseholder in respect of Banspani Iron Ore and Manganese Mines and the Gurubeda Iron Ore Mines and that in terms of the amended Section 8A(6) of the MMDR Act, 1957, the lease stood extended till 31.03.2020. It is further claimed by the applicant that pursuant to the directions issued by this Court on 02.08.2017 in Writ Petition (C) No.114 of 2014, a demand notice dated 02.09.2017 has been issued by the Government demanding an amount of Rs.1,20,22,711/towards compensation for the excess production. This was in respect of Banspani Iron Ore. In respect of Gurubeda Iron Ore Mines, a 2 separate demand notice demanding a sum of Rs.27,71,73,835/ was issued.
4. According to the applicant he has already deposited a sum of Rs.1,33,17,910/ in respect of Banspani Mines and a sum of Rs.1,40,00,000/ in respect of Gurubeda Mines. Petitioner wants permission to remove the ore already mined and lying at site so that the compensation amount could be paid to the Government.
5. The State has filed a reply contending interalia: (i) that in respect of Banspani Mines, the last lease period expired on 28.11.1993; (ii) that the lease is nonoperating ever since 2009 and was declared as lapsed by the proceeding dated 16.06.2015; (iii) that a revision application is pending against the said order; (iv) that in respect of Gurubeda Mines, the last lease period expired on 04.07.2002; and (v) that the mining operation was 3 discontinued from 30.10.2009 for want of statutory clearances and the revision filed against the same was also rejected.
6. After stating the above objections, the State Government has also indicated its no objection to the sale of the already raised mineral. Paragraph 6 of the reply of the Government reads as follows: It is further submitted that the State Government may have no objection if the instant case is considered in the ratio of order dated 15.01.2020 of Honble Supreme passed in I.A. No.30915 of 2019 filed by M/s Mideast Integrated Ltd. in W.P.(C) No.114/2014 and the applicant is allowed sell of raised and disposed stack lying in its mining leases to pay the compensation

amount outstanding against it. However, no mining operation may be allowed for resumption.

7. However, it is submitted by Mr. Prashant Bhushan, learned counsel for the writ petitioner that while there could be no objection to the removal and sale of the material already mined and kept, there is every likelihood of the applicant misusing even a mere permission to sell the existing stock. Therefore, he suggested that the removal of the material and its sale should be under the supervision of an independent Committee of persons, apart from the State Government officials.

8. Since the apprehension is genuine, we appoint Honble Mr. Justice Bijoy Krishna Patel, Chairperson, Odisha Human Rights Commission and Honble Mr. Justice S.C. Parija, Former Judge, Odisha High Court as Members of the Committee. Subject to the supervision of the said Committee, adequately and ably assisted by the concerned authorities of the State of Odisha, the applicant is permitted to sell and remove the material already mined. The Committee shall ensure that no mining operation is undertaken under the cover of this Order. The sale proceeds should go directly to the treasury of the State Government to be adjusted towards compensation. The applications are disposed of on the above terms. I.A. Nos .179704 of 2018 and 54364 of 2019 9. These applications are taken out by a leaseholder of Oraghat Iron and Manganese Ore Mines in Tehsil Bonai, District 5 Sundergarh, Odisha praying respectively for: (i) condonation of delay in depositing the compensation amount as per the Judgement of this Court in Writ Petition (C) No.114 of 2014 and for permission to resume mining operations subject to getting all required clearances; and (ii) to take on record certain additional documents such as the letter seeking extension of mining lease etc.

10. According to the applicant, he had a mining lease executed on 06.04.1998 in respect of an area of 25.847 hectares and that as per the Judgment of this Court dated 02.08.2017, he was obliged to make payment of the demand on or before 31.12.2017. However, the applicant could not make payment within the time stipulated on account of various factors. Hence, the application for condonation of delay and for permission to resume mining operations.

11. The State has filed a reply contending that the applicant does not at all have the requisite clearances to operate the mines 6 and that the mining operation, though valid for a period of 20 years from 06.04.1998 to 05.04.2018, the mining operations were stopped on 01.04.2013 for want of statutory clearances. According to the State, the applicant is not eligible for extension under Section 8A, as he does not possess the forest clearance.

12. It is admitted by the State that the petitioner has paid Rs.9,68,08,288/ including interest of Rs.1,43,08,386/ towards delay in payment together with the demand amount of Rs.8,24,32,549/ for violation of the Environment Protection Act, 1986 and Forest Conservation Act, 1980. It is also admitted by the State that the applicant has paid the compensation amount of Rs.21,12,599/ including interest of Rs.3,51,264/ towards delay in payment together with the demand amount of Rs.17,60,177/ for violation of MP/CTO.

13. More importantly, it is stated in paragraph 6 of the reply that the applicant has approved mining plan valid upto 31.03.2023, but the environment clearance expired on 7 03.04.2018. The applicant has also not obtained forest clearance in respect of DLC forest land.

14. From the objections of the State, it appears that the applicant has cleared all monetary liabilities and that what stands as an impediment is the nonavailability of statutory clearances. Therefore these applications are disposed of permitting the State Government to process the application subject to all types of statutory clearances being obtained. I.A. No .150858 of 2019 15. This is an application filed by the holder of a mining lease in respect of Bholbeda Iron Ore Mines over an area of 62.322 hectares. The mining lease deed was executed on 10.06.1983, effective for a period of 20 years upto 09.06.2003. The applicant filed an application for first renewal on 05.06.2002, but when it was pending, MMDR Amendment Act, 2015 came into effect.

16. According to the applicant, they were alleged to have mined 32,254 MT of Iron ore in violation of EC and that as per 8 the Judgment of this Court dated 02.08.2017, the same should be compensated under Section 21(5) of the MMDR Act.

17. The applicant claims that as per Form H1 of the applicant company the stock lying at the mining lease area is as follows: (i) Lumps: Grades (% of FE content) Closing stock at mine site (MT) 60% to below 62% 1812.000 62% to below 65% 8489.180 65% and above 18107.145 (ii) Fines Grades (% of FE content) Closing stock at mine site (MT) 55% to below 58% 5511.000

18. Therefore, the applicant seeks permission to sell the stock of minerals lying in the leasehold area and to deposit the sale proceeds directly with the State Government.

19. From the averments contained in the application, it appears that what is claimed by the applicant to be lying at the mining lease area is less than what is alleged by the State Government to have been mined in violation of EC. While it may be permissible to allow the applicant to sell the stock lying at site 9 and to deposit the sale proceeds entirely with the Government, it must be ensured that the applicant does not carry out any mining activity under cover of this Order.

20. Therefore, this application is disposed of permitting the applicant to sell and remove the ore already mined and lying at site, under the supervision of the Committee appointed hereinabove. The Committee shall be assisted by the concerned authorities of the State and the sale proceeds shall go directly to the treasury of the State Government to be adjusted towards the amount due under Section 21(5) of the MMDR Act. ..CJI (S.A. BOBDE) .J.

(A.S. BOPANNA) ..J.

(V. RAMASUBRAMANIAN) New Delhi January 06, 2021 10

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