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Court : Orissa

Decided On : Apr-08-2002

Reported in : 93(2002)CLT657

Judge : R.K. Patra and ;Pradip Mohanty, JJ.

Acts : [Constitution of India](#) - Article 226

Appeal No. : O.J.C. No. 9111 of 1999

Appellant : Orissa Pump and Engineering Co. Ltd. and ors.

Respondent : State of Orissa and ors.

Advocate for Def. : Anil Mohapatra, R.C. Sahoo, B. Mallick and J.M. Roul,
;Somanath Misra and Girija Tripathy, ;Sanjit Mohanty, Adv. and ;Addl. Govt. Adv.

Advocate for Pet/Ap. : M.R. Mohapatra, S.C. Das, B.K. Nayak-3 and S.S. Swain

Disposition : Writ petition dismissed

Judgement :

R.K. Patra, J.

1. This is a writ petition filed on behalf of the Orissa Pump and Engineering Company Limited Workers' Union and by some employees of the Orissa Pump and Engineering Company Limited. They seek quashing of the agreement entered

into by the Orissa Small Industries Corporation Limited (in brief 'OSIC') and opposite parties 5 and 6.

Their further prayer is that the State Government should be directed to take steps for reconstitution of the Orissa Pump and Engineering Company Limited.

2. Orissa Pump and Engineering Company was floated by OSIC as a fully owned subsidiary company. In course of time, the aforesaid company sustained huge loss for various reasons. As large number of such Government companies sustained losses, a Cabinet Sub-committee was constituted by the State Government to suggest measures for reform/restructurisation of Public Sector Undertakings. After making necessary review, the Cabinet Subcommittee recommended as follows :

'While OSIC will continue to play the promotional role providing support to local S.S.Is., all the subsidiary companies of OSIC should either be privatised or converted into joint venture Enterprises with private participation (OSIC holding a minority of share holdings).'

Pursuant to such recommendation, offers were invited by advertisement dated 11.1.1997 for acquisition of 51 to 100 per cent equity. Opposite parties 4 to 6 purchased the equity shares and thus ownership of Orissa Pump and Engineering Company was transferred to them as per agreement dated 21.10.1998.

3. This Court is not the forum to decide whether ownership of the company ought to have been transferred or not because it was the policy decision of the State Government, Privatisation of BALCO following the disinvestment policy was recently the subject-matter of challenge before the Supreme Court in BALCO Employees Union v. Union of India. 2001 (8) SCALE 541. Their Lordships held that judicial review does not extend to examination of policy decisions. This being the legal position, there is hardly any scope for interference by this Court.

4. Counsel for the petitioners submitted that the sale of equity transfer of ownership to opposite parties 4 to 6 was made contrary to the order of this Court passed in O.J.C. No. 2978 of 1997. On perusal of the orders passed in the said case, we are satisfied that no such prohibitory order was passed by this Court.

There is thus no merit in this writ petition which is accordingly dismissed.

Pradip Mohanty, J.

I agree.

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