

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s). 114/2014

COMMON CAUSE

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

((1) CENTRAL EMPOWERED COMMITTEE REPORT ALONGWITH INTERLOCUTORY APPLICATIONS AND OBJECTIONS TO CEC REPORT FILED BY JINDAL STEEL AND POWER LIMITED, RUNGTA GROUP OF COMPANIES, ESSEL MINING AND INDUSTRIES LTD. AND SARDA MINES PVT. LTD.

(2) IA NO. 90729/2017

(APPLN. FOR CLARIFICATION OF JUDGMENT DT. 02.8.2017 ON B/O PETITIONER)

(3) I.A.NO. 130422/2017

(APPL. FOR PERMISSION ON B/O R.P. SAO)

(4) I.A. NO. 133354/2017

(APPLN. FOR MODIFICATION OF THE ORDER DT. 02.08.2017) ON BEHALF OF JITENDRA NATH PATNAIK)

(5) IA NO. 135416/2017

(APPLN.FOR DIRECTIONS FILED BY MR. A.D.N. RAO, ADV. (A.C.)

(6) IA NO. 134543/2017

(APPLN.FOR RESTORATION OF IA NO. 108236/2017)

(7) IA NO. 135958 AND 135956/2017

(APPLNS. FOR PERMISSION AND CLARIFICATION/DIRECTIONS ON B/O THE INDUSTRIAL DEVELOPMENT CORPN. OF ORISSA LTD.)

Date : 13-12-2017 These applications were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MADAN B. LOKUR

HON'BLE MR. JUSTICE DEEPAK GUPTA

Amicus

Mr. Harish N. Salve, Sr. Advocate (A.C.) [NP]

Mr. A.D.N. Rao, Advocate (A.C.)

Mr. Siddhartha Chowdhury, Advocate (A.C.) [NP]

Ms. Aparajita Singh, Advocate (A.C.) [NP]

For Petitioner(s) Mr. Prashant Bhushan, Adv.

For Respondent(s) Mr. F.S. Nariman, Sr. Adv.
Tata Steels Dr. A.M. Singhvi, Sr. Adv.
Mr. Ashok Parija, Sr. Adv.
Mr. Gopal Jain, Sr. Adv.
Mr. Amar Dave, Adv.
Mr. R.N. Karanjawala, Adv.
Ms. Nandini Gore, Adv.
Ms. Sonia Nigam, Adv.
Ms. Tahira Karanjawala, Adv.
Mr. Abhinay Sharma, Adv.
Ms. Neha Khandelwal, Adv.
Mr. Subhash Sharma, Adv.
Mr. Amit Bhandari, Adv.
Ms. Prashanti Pasupuleti, Adv.
Mrs. Manik Karanjawala, Adv.

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Mr. Manas Ranjan Mohapatra, Sr. Adv.
Mr. Shiv Mangal Sharma, Adv.
Mr. Nishit Agarwal, Adv.
Mr. Lalitendu Mohapatra, Adv.
Mr. Shrey Kapoor, Adv.
For M/s Aura & Co.

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Mr. Anand Varma, Adv.
Mr. Naveen Kumar, Adv.
Mr. Dhananjaya Mishra, Adv.
Mr. Gaurav Khanna, Adv.
Ms. Nishit Agarwal, Adv.
Mr. Mahesh Agarwal, Adv.
Ms. Devika Mohan, Adv.
Mr. E.C. Agrawala, Adv.

Mr. Ashok H. Desai, Sr. Adv.
Mr. Ashok K. Parija, Sr. Adv.
Mr. Gaurav Kejriwal, Adv.
Mr. Keshav Mohan, Adv.
Mr. Samarth Singh Ashiya, Adv.

Kaypee Mr. Mahesh Jethmalani, Sr. Adv.
Mr. Shiv Mangal Sharma, Adv.
Mr. Nishit Agarwal, Adv.
Mr. Ravi Sharma, Adv.
Ms. Mugdha Pande, Adv.

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Ashok Panigrahi, Adv.

SAO Mr. Mukul Rohatgi, Sr. Adv.
Mr. Shiv Mangal Sharma, Adv.
Mr. Shrey Kapoor, Adv.

Sarda Mines Mr. Mukul Rohatgi, Sr. Adv.
Mr. Gopal Jain, Sr. Adv.
Ms. Nandini Gore, Adv.
Mr. Navin Kumar, Adv.
Mr. Mohit Mudgal, Adv.
Ms. Khushboo Bari, Adv.
Mr. Aakarshan Sahai, Adv.
Mr. Sushil Jethmalani, Adv.
Mr. R.N. Karanjawala, Adv.
Ms. Manik Karanjawala, Adv.

JSPL Mr. Aakash Bajaj, Adv.
Ms. Shagun Jaggi, Adv.
Mr. Sanjeev K. Kapoor, Adv.
M/S Khaitan And Co.

Mr. A.K. Panda, Sr. Adv.
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Mr. Atulesh Kumar, Adv.
Ms. Tejaswi Kumar Pradhan, Adv.
Mr. P.K. Mullick, Adv.
Mr. Balendu Shekhar, Adv.
Mr. Gurmeet Singh Makker, Adv.
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I.A. No. 39 Mr. Baswa P. Patil, Sr. Adv.
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Mr. Ajay Bhargava, Adv.
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Ms. Richa Bhargava, Adv.

Mr. Manas Ranjan Mohapatra, Sr. Adv.
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For M/S. Aura And Co.

Mr. Sunil Kumar Jain, Adv.

135598 Mr. V. Giri, Sr. Adv.
Mr. Shibashish Mishra, Advocate

Mr. Angi Babu, Adv.
Mr. Neelesh Singh Rao, Adv.
Mr. Rajender Kumar, Adv.

OMC Mr. Raj Kumar Mehta, Adv.
 Ms. Himanshi Andley, Adv.

FIMI Mr. Sunil Dogra, Adv.
 Mr. Vivek Vishnoi, Adv.
 Mr. Abhishek Sharma, Adv.

SAIL Mr. Mukul Rohatgi, Sr. Adv.
 Mr. Sunil K. Jain, Adv.
 Mr. Pawanshree Agrawal, Adv.

 Mr. Ashok Kr. Parija, Sr. Adv.
 Mr. Dhanjay Mishra, Adv.
 Mr. Arnav Dash, Adv.

UPON hearing the counsel the Court made the following
O R D E R

IA NO. 90729/2017

Notice in this application was issued with regard to Prayers

(a) and (b). These prayers read as follows:

"a) Clarify the judgment dated 02.08.2017 that in light of the fact that Bonai Industrial Company Limited and Feegrade & Co. Pvt. Limited are part of the 'Rungta Group' of Companies, they too will be heard as part of the 'Rungta Group' of Companies to ascertain whether there has been any violation of the provisions of Section 6 of the MMDR Act.

b) Clarify the judgment dated 02.08.2017 that all the mining lease holders whose operations are presently not suspended but who have to pay compensation and/or other dues/penalty by virtue of the judgment dated 02.08.2017 or otherwise, would have to immediately cease mining operations in case they fail to deposit the entire amounts by 31st December, 2017."

Learned counsel appearing on behalf of the Bonai Industrial Company Limited and Feegrade & Co. Pvt. Ltd. has no objection if the mining leases of these companies are referred to the Committee set up by this Court by order dated 22.11.2017 for looking into the

violations of Section 6 of the Mines and Minerals (Development and Regulation) Act, 1957 and Rule 37 of the Mineral Concession Rules, 1960.

Prayer (a) to this extent stands disposed of.

We have heard several learned senior counsel for the mining lease holders.

We have also seen the relevant portion of the Report dated 04.12.2017 submitted by the Central Empowered Committee (CEC) as a follow up action on the Judgment delivered by this Court on 02.08.2017.

We do not accept any of the submissions made by learned senior counsel for the mining lease holders objecting to the report of the CEC. Consequently, prayer (b) is allowed.

Further, with regard to prayer (b), we make it absolutely clear that the mining lease holders must pay compensation and/or other dues / penalty by virtue of the Judgment dated 02.08.2017 on or before 31.12.2017. If the demanded amounts are not paid on or before 31.12.2017, the State of Odisha shall close the mining operations of that mining lease holder.

However, we make it clear that if there is any demand raised by the State of Odisha with regard to non-compliance of consent to operate or mining plan threshold, the mining lease holders are at liberty to challenge the demand in an appropriate forum.

In case, the demands raised by the State of Odisha are paid by 31st December, 2017, the mining operations will not be stopped because of a challenge to non-compliance of the consent to

operate / mining plan threshold.

With regard to M/s. Tata Steels, we may further add that in case of non-compliance of forest clearance, the CEC Report dated 04.12.2017 in para 11 states as follows:

"11. the matters relating to FC violation is being examined separately by the Government..... the lessee has been asked to take up this issue with the State Government."

The applicant is at liberty to take it up with the State Government.

The application is disposed of.

Mr. Rakesh Dwivedi, learned senior counsel appearing on behalf of the State of Odisha says that in spite of order dated 22.11.2017, the amount of Rs.50 lacs has not yet been deposited even though the mining lease holders had volunteered to do so. To say the least, this is extremely unfortunate. To sort out this issue, list the matter on 15.12.2017.

List the matter on 14.12.2017 with regard to Jindal Steel & Power Ltd.

List the matter on 30.01.2018 with regard to Sarda Mines.

I.A. No. 130422/2017 (Application on behalf of the Intervenor (lessee/mine owner) seeking permission to deposit Rs.500 crores with the State Government and resume mining operation with a bank guarantee to pay the remaining dues within a period of eight weeks)

Learned counsel for the applicant seeks leave to withdraw the application.

The application is dismissed as withdrawn.

I.A. No. 133354 (Application for modification on behalf of Jitendra Nath Patnaik)

The application is dismissed.

I.A. No. 135416/17 (Application for Directions (adding the name of M/s Seerajuddin & Co.) filed on behalf of Mr. A.D.N. Rao, learned Amicus)

Issue notice.

I.A. No. 134543/17

This is an application for restoration of I.A. No. 108236 of 2017.

The application for restoration is allowed and I.A. No. 108236 of 2017 is restored to its original number.

I.A. No. 108236/2017

Issue notice.

Learned Amicus and learned counsel for the State of Odisha accept notice and seeks some time to file a reply.

Reply be filed within four weeks.

I.A. No. 135956 and 135958

I.A. No. 135956 is an application for permission to file application for directions filed on behalf of the Industrial Development Corporation of Odisha Ltd and I.A. No. 135958 is an application for directions on behalf of the Industrial Development Corporation of Odisha Ltd.

The applications are dismissed.

(MEENAKSHI KOHLI)
COURT MASTER

(KAILASH CHANDER)
COURT MASTER