

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A. NO.257 OF 2016

AND

I.A. NO.260 OF 2016 IN I.A. NO.257 OF 2016

IN

WRIT PETITION (C) NO.562 OF 2009

SAMAJ PARIVARTANA SAMUDAYA & ORS. PETITIONER(S)

VERSUS

STATE OF KARNATAKA & ORS. RESPONDENT(S)

O R D E R

I.A. No.260 of 2016 in I.A. No.257 of 2016

Application for impleadment of Karnataka Iron and Steel Manufacturers Association is allowed.

I.A. No.257 In W.P. (C) No.562/2009

This I.A. has been filed seeking the following reliefs :

- (a) Direct that the successful bidders of the auction as contemplated by Order dated 30.07.2015 may be allowed to beneficiate their low grade ore in the beneficiation

plants of the other mineral processing units;

- (b) Direct beneficiation plants be allowed to participate in the auction of Category 'C' mining leases in the changed circumstances as mentioned above;
- (c) Direct that the mining lessees be allowed to sell low-grade iron-ore to the beneficiaton plants;
- (d) Appoint and direct a Technical Committee of Experts to determine the end-users of iron ore for allotment of mining leases;
- (e) Pass any other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case in favour of the applicant.

Notice has been issued insofar as prayers (a), (c) and (d) are concerned.

Pursuant thereto, the State of Karnataka has filed its counter affidavit and the Karnataka Iron and Steel Manufacturers Association, which has intervened in the matter, has also filed its reply. At the request of the Court, Shri M.K. Jiwrajka, who was till recently working as the Member Secretary of the Central Empowered Committee (C.E.C.) has also submitted his response.

We have considered it necessary to seek the views of Shri Jiwrajka in view of the fact that he has dealt with this matter for several years now and has assisted the Court on several earlier occasions. Furthermore, despite Shri Jiwrajka having demitted the office, the new incumbent is yet to resume office. Further, Shri Shyam Divan, learned *amicus curaie* and Shri Mahendra Vyas, Member of the C.E.C. has affirmed that the views and suggestions expressed by Shri Jiwrajka have the broad approval of the C.E.C.

Having heard the learned counsels for the parties; and taking into account the totality of the facts and circumstances that are relevant to the issue, we are of the view that prayer (a) as extracted above, should be allowed subject to the conditions indicated in the present order.

In allowing the said prayer, we have taken into account the fact that the working of the 'Category-C' leases which are due for auction shortly, would result in generation of some quantity of low grade iron-ore and for effective utilization of the same beneficiation of such ore

is desirable. In this regard we have also taken note of the fact that keeping in mind the likely volume of generation of low grade mineral in an individual mining lease, it may not be economically viable, at this stage, for an individual lessee to set up a beneficiation plant of its own and even if it is economically feasible to do so, availability of water, suitable land etc. may not be readily forthcoming. In such a situation allowing prayer (a) would not only be conducive to effective and full utilization of the minerals that are to be extracted but also such a course of action may have the effect of attracting a larger number of bidders in the on-going process of auction. We, therefore, allow prayer (a) subject to the following conditions :-

- (i) The sampling procedure for advance e-auction of iron-ore sold from NMDC mines as laid down in the minutes of the meeting held by the C.E.C. on 29.01.2013 (paragraphs xiii to xvi) and the said procedure subsequently introduced to all spot e-auctions in the minutes of meeting dated 20.12.2013 held by

C.E.C. (paragraph xix) will also apply to all minerals sent for beneficiation from Category 'C' mines.

(ii) Ownership of the minerals sent and the end product after beneficiation as well as ownership of the tailings shall remain with the lessee.

(iii) The movement of the mineral to the beneficiation plant and its return as well as the return of tailings will conform to the regulatory regime which is in force under the provisions of Karnataka (Prevention of Illegal Mining, Transportation and Storage of Minerals) Rules, 2011 which provisions will be strictly enforced by the appropriate authorities of the State of Karnataka.

In passing the above directions, we have also taken note of the what has been pointed out by Shri Raju Ramachandran, appearing for State of Karnataka with regard to possibility of mixing of minerals coming from different sources in the beneficiation plants. While the facts pointed by

Shri Ramachandran may be correct, we do not see as to how the same can constitute to be a reasonable basis to persuade the Court not to pass the present directions inasmuch as the problem visualized by Shri Ramachandran already exists on the ground in respect of the beneficiation of minerals from 'A' and 'B' Category mines as also those obtained from the on-going process of e-auction. In any event, the present directions with regard to taking and keeping of samples, indicated above, in our considered view, would adequately take care of the above situation.

In the light of what has been discussed above, we consider the prayer made in clause(c) to be redundant.

Insofar as the prayer made in clause(d) is concerned, the same is relatable to the issue of beneficiation plants being end-users which have been answered in the negative by this Court earlier by the order dated 30.07.2015 passed in I.A. Nos.188, 225, 230 etc. and the order dated 28.01.2016 dismissing I.A. No.246 of 2016 by which modification of earlier order dated 30.07.2015 was

asked for. Though an attempt was made by Ms. Indu Malhotra, learned senior counsel appearing for the applicant, to convince the Court that in the larger interest, beneficiation plants should also be allowed to take part in the bidding process by contending on the basis of scientific and technical data, which was sought to be placed before the Court, that such plants do come within the meaning of the expression "end-users" we refrain from going into the said question any further in view of our earlier orders referred to above and also as the same would delay the on-going process of auction of the fourteen 'C' Category mines. Depending on the experience that will be unravelled by the implementation of the present directions, if so required, the aforesaid prayers will be considered at a later stage i.e. at the stage of auction of the remaining or more of 'C' Category mines.

The State of Karnataka is directed to widely circulate the present directions to enable the intending bidders to participate in the bidding process for the fourteen Category 'C' mines.

In view of the order we have passed today,

we extend the time schedule commencing from "the last date for responses to queries by the State Government and all subsequent stages by three weeks at each stage leading to the final issuance of Letter of Intent". The revised dates be also published.

I.A. No.257 is disposed of in the above terms.

.....,J.
(RANJAN GOGOI)

.....,J.
(PRAFULLA C. PANT)

.....,J.
(A.M. KHANWILKAR)

NEW DELHI
AUGUST 01, 2016

ITEM NO.301

COURT NO.6

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.A.NO.259, I.A.NO. 257 & I.A.NO.260 IN I.A.NO.257
IN
WRIT PETITION(S) (CIVIL) NO(S). 562/2009

SAMAJ PARIVARTANA SAMUDAYA & ORS.

Petitioner(s)

VERSUS

STATE OF KARNATAKA & ORS.

Respondent(s)

(With applications for directions and impleadment and office report)

Date : 01/08/2016 These applications were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE RANJAN GOGOI
HON'BLE MR. JUSTICE PRAFULLA C. PANT
HON'BLE MR. JUSTICE A.M. KHANWILKAR

Amicus Curiae

Mr. Shyam Divan, Sr. Adv.

Mr. A.D.N. Rao, Adv.

Mr. Siddhartha Chowdhury, Adv.

For Petitioner(s)

Mr. Govind Jee, Adv.

For Mr. Prashant Bhushan, Adv.

For Respondent(s)

Ms. Indu Malhotra, Sr. Adv.

Mr. Vikas Mehta, Adv.

Ms. Amrita Sanghi, Adv.

Mr. Tanvir Nayar, Adv.

Mr. Varun Singh, Adv.

Mr. Raju Ramachandran, Sr. Adv.

Ms. Anitha Shenoy, Adv.

Ms. Surabhi Aggarwal, Adv.

Ms. Mythki Vijay Kumar Thallam, Adv.

Mr. C.U. Singh, Sr. Adv.

Mr. Rajat Jariwal, Adv.

M/s. Khaitan & Co.

Ms. Vimla Sinha, Adv.
Mr. S.A. Haseeb, Adv.
Ms. Anil Katiyar, Adv.

Mr. R. Bala, Adv.
Ms. Saroj Bala, Adv.
Mr. Amarjit Singh, Adv.
Mr. Ajay Singh, Adv.
Mr. M.K. Maroria, Adv.

Ms. Asha Gopalan Nair, Adv.
Mr. Kabir Hathi, Adv.

Mr. K. Raghava Charyulu, Adv.
Mr. Kailash Pandey, Adv.
Mr. Ranjeet Singh, Adv.
For K.V. Sreekumar, Adv.

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

I.A. No.260 of 2016 in I.A. No.257 of 2016

Application for impleadment of Karnataka
Iron and Steel Manufacturers Association is
allowed.

I.A. No.257 In W.P. (C) No.562/2009

I.A. No.257 is disposed of in terms of the
signed order.

I.A. No.259 In W.P. (C) No.562/2009

List this application on 22.08.2016 to
enable NMDC as also C.E.C. to file their responses.

(Neetu Khajuria)
Court Master

(Asha Soni)
Court Master

(Signed order is placed on the file.)