
(2005) 06 JH CK 0062
In the Jharkhand High Court
Case No : W.P.C. No. 2143 of 2005

Agniraj Briquette Company and Another	APPELLANT
Vs	
Bharat Coking Coal Limited and Others	RESPONDENT

Date of Decision : 15-06-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 414, 419, 420, 467

Citation : (2005) 4 JCR 63

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : P.K. Prasad and V.K. Prasad, for the Appellant; Ananda Sen, for the Respondent

Judgement

M.Y. Eqbal, J.—Heard Mr. P.K. Prasad, learned counsel for the petitioners and Mr. Ananda Sen, learned counsel for the respondent-BCCL.

2. In this writ application the petitioners have prayed for quashing the direction as contained in Wireless Message dated 8.3.2005, whereby supply of coal as per the linkage granted to the petitioners has been suspended.

3. The case of the petitioner is that they are carrying on business of manufacture of briquette and they have been granted coal linkage by the Coal India Ltd. On 23.10.2004 an FIR was lodged against the petitioners alleging commission of offences under Sections 419, 420, 467, 468, 471, 414 and 120B, IPC, which was registered as Govindpur P.S. Case No. 253 of 2004 alleging inter alia that certain trucks were intercepted and the truck drivers confessed that the coal loaded therein was to be unloaded at the Mandi at Varanasi. On the basis of FIR, the Deputy Superintendent of Police, Headquarter, Dhanbad directed the authorities of the B.C.C.L. to suspend the supply of coal to the petitioners. Subsequently, respondents issue show cause notice on 29.1.2005 calling upon the petitioners to show cause as to why supply of coal be not suspended due to misutilisation of coal as alleged in Govindpur P.S. Case No. 253/2004. Petitioners filed their show cause and finally the impugned order of suspension of supply of coal has been

issued.

4. Mr. P.K. Prasad, learned counsel for the petitioners assailed the action of the respondents as being illegal and wholly without jurisdiction. Learned counsel submitted that the action of the respondents in suspending supply of coal on the direction of police is wholly illegal and without jurisdiction. Learned counsel further submitted that the impugned order suspending supply of coal has been issued without assigning any reasons and without following the principles of natural justice.

5. In the counter affidavit filed by the respondent/BCCL, it is stated that supply of coal has been suspended on the advise of the police and before doing it, show cause notice was issued to the petitioners. Since, show cause submitted by the petitioners was not satisfactory, the impugned order was issued. It is further submitted that petitioners also moved the Court for grant of bail but the Sessions Judge refused to grant anticipatory bail on the ground that there are two conflicting reports of the two agencies with regard to" the allegations made against the petitioners.

6. Admittedly, show cause notice was issued on the basis of FIR lodged against the petitioners being Govindpur P.S. Case No. 253/2004 and at the instruction and after discussion with the Deputy Superintendent of Police Headquarter, Dhanbad. Petitioners submitted their show cause and thereafter the impugned wireless message was issued. A copy of the wireless message suspending supply of coal to the petitioners has been Annexed-7 to the writ application, which reads as under :

WIRELESS MESSAGE

FOR : ALL GMS/CGMS, ALL AREA, BCCL

REPEAT : AREA SALES MANAGER, ALL AREA. BCCL.

COAL DESPATCHES A/C FOLLOWING CONSUMERS IS KEPT UNDER SUSPENSION TILL FURTHER ADVISED FROM THIS END :

1. M/S SANT ENTERPRISES, RAMPUR, RAMNAGAR, VARANASI.
2. M/S AGNIRAJ BRIQUETTE COMPANY, KHARUA, GHORWAL, SONEBHADRA.
3. M/S MANGLA BRIQUETTE, E-4/ 32, SARAIGOBARDHAN, CHETGANJ, VARANASI.
4. M/S OM ENTERPRISES, B-37/ 195-B-BIRDPUR, BHELPUR VARANASI.

THIS IS IN CONNECTION WITH GOVINDPUR P.S. CASE NO. 253/04 AND AS PER APPROVAL OF COMPETENT AUTHORITY.

SALES MANAGER(RS) BCCL, KOYLABHAWAN.

REF NO. : BCCL/S&M/RS/694

CONFIRMATORY COPY:

AREA SALES MANAGER, ALL AREA, BCCL.

DY. CSM(L), KINDLY REFER TO HIS LETTER DATED 8.3.2005

SRI K.V. SINGH, DY. SP (HQ), DHANBAD, FOR INFORMATION.

Sd/- SALES MANAGER(RS) BCCL, KOYLABHAWAN.

7. From perusal of the aforesaid wireless message, it appears that before issuing final order of suspension of dispatch/supply of coal, respondents have not applied their mind inasmuch as neither show cause has been considered nor the petitioners were given opportunity to submit their documentary evidence to meet the allegation made against them. In my opinion, therefore, the matter needs reconsideration by the respondent-authority.

8. Taking into consideration the aforesaid facts, I quash the impugned Wireless Message and direct the concerned respondent to pass a reasoned order after considering the evidence that may be submitted by the petitioners. The petitioners shall submit all the relevant papers within two weeks from today and the concerned authority shall pass a reasoned order within 15 days thereafter. Let it be clarified that if the petitioner fail to submit the relevant papers within 15 days as aforesaid, then the order of suspension of supply of coal shall stand revived. It is also made clear that this order will not in any way prejudice the criminal case lodged against the petitioners and the same shall be proceeded in accordance with law.