

(2009) 03 JH CK 0061
In the Jharkhand High Court

Central Coalfields Ltd.

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 19-03-2009

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 9

Citation : (2009) 2 JCR 431

Hon'ble Judges : Ajit Kumar Sinha, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ajit Kumar Sinha, J.—The present writ petition has been preferred for the following reliefs:

(i) For an appropriate writ, order, direction from this Hon'ble Court commanding upon the respondent No. 2 to show-cause as to why and under what authority he has filed the certificate case against the petitioner inspite of the fact that the petitioner had already paid the royalty on the rate received;

(ii) For quashing of the entire certificate proceeding initiated as against the petitioner being certificate case No. 2/94-95R including the order dated 11.3.1994 (Annexure-4) passed by the Certificate Officer (Mine), Dhanbad whereby and whereunder he has been pleased to hold that the petitioner is liable to pay a sum of Rs. 3,86,729/- as royalty and issued demand notice for the same and the order dated 30.6.1997 (Annexure-6) whereby and where- under the Certificate Officer (Mine). Dhanbad has refused to interfere with the order dated 11.3.1997;

(iii) For quashing the order dated 20.1.1998 passed by the Deputy Commissioner, Giridih (Annexure-8) in Certificate Appeal No. 20/97 whereby and whereunder he has been pleased to dismiss the appeal;

(iv) For quashing of the order dated 28.3.2000 passed by the Commissioner,

North Chotanagpur Division, Hazaribagh in Certificate Revision No. 25/98 whereby and whereunder he has been pleased to dismiss the revision petition filed by the petitioner;

(v) For a writ or in the nature of mandamus commanding upon the concerned respondents to forbear from giving effect to or acting pursuant to or in furtherance of the said impugned orders.

The facts in brief are set out as under:

2. A Certificate Proceeding was initiated by the Certificate Officer-cum-Deputy Director, Mines, Dhanbad Circle against the petitioner for less payment of royalty and cess. The District Mining Officer, Giridih upon verification in August 1993 found that the Coal Company paid royalty and cess up to April 1993 for Grade-"E" Coal at the rate of Rs. 45 per tonne and after one month revised the grade of seam from April, 1993 to Grade-"F" and paid royalty and cess at the rate of Rs. 25 per tonne and the difference of the amount paid in March 1993 and April 1993 was adjusted. The District Mining Officer, Giridih, found the reduction of Grade from "E" to "F" against the provision of the rules and held that the grade or royalty cannot be reduced once the grade of seam of open cast Mine was fixed as Grade-"E". Upon calculation of the difference a Certificate Case No. 2/1994-1995 was filed for realization of the amount and the Certificate Officer vide its order dated 11.3.1997 and 30.6.1997 directed the petitioner to pay Rs. 3.86,729/- with interest for the difference.

3. The petitioner filed an Appeal No. 20/97 before the Deputy Commissioner, Giridih and vide order dated 20.10.1998 the Deputy Commissioner, Giridih upheld the order of the Certificate Officer and directed the petitioner to pay the certificate amount with interest. Thereafter, the " petitioner preferred a Revision Petition No. 25/1998 which was also dismissed vide its impugned order dated 28.3.2000 which is sought to be challenged.

4. The main contention raised by the counsel for the petitioner is that the grade was corrected subsequently from "E" to "F".

5. I have considered the pleadings and the submissions and perused the order of the Certificate Officer and the Appellate Authorities. Once a seam of coal has been excavated (extracted) and graded, its grade could not be revised again. It appears that Certificate Officer has taken a right view as provided u/s 9 of the Mines and Minerals (Regulation and Development) Act, 1957. It is also evident from the report of the Mining Inspector that the 23304.47 M.T. remaining coal of grade "E" was already supplied to M.P.T.P.S. (Muzaffarpur) and through Bill No. 4,13,16 (1993-1994) royalty was charged @ 45/- per M.T. Hence the coal was once sold as grade "E" by the petitioner themselves it could not be down graded to "F" in order to avoid paying the requisite royalty and therefore the Certificate Officer rightly ordered to pay the difference in amount with interest. Even otherwise all the three authorities below have given concurrent finding of facts and this Court cannot sit as an appellate authority to re-appreciate the facts and

evidence.

6. The fact remains that there is no violation of Section 9 of the Mines and Minerals (Regulation and Development) Act, 1957 since the officials have not revised the rate of royalty instead the petitioner company was asked to pay the royalty of the coal which was in the closing balance classified as Grade "E" of March 1993 and opening balance of April 1993 and they had actually supplied the same through bills to their consumers charging royalty at the rate of Rs. 45/- per M.T. which is the prescribed rate for Grade "E" coal.

Considering the aforesaid facts and circumstance of the case, I find no merit in the writ petition and the same is accordingly dismissed.