

(2012) 01 JH CK 0003
In the Jharkhand High Court
Case No : L.P.A. No. 377 of 2011

Central Coalfields Ltd., Ranchi

APPELLANT

Vs

M/s Balaji Fuels Private Ltd., Ranchi

RESPONDENT

Date of Decision : 18-01-2012

Acts Referred:

Citation : (2012) 2 JCR 92 : (2012) 1 JLJR 250

Hon'ble Judges : Prakash Tatia, J;P.P. Bhatt, J

Bench : Division Bench

Judgement

1. Heard.

2. Admit.

3. There is no need to issue notice to the respondent-writ petitioner since Learned Counsel has already put in appearance on behalf of the respondent-writ petitioner.

4. Heard Learned Counsel for the parties on interim prayer.

5. Learned Counsel for the appellant submitted that it is a case where the C.B.I. has registered F.I.R. against the respondent-writ petitioner on the basis of joint inspection report already referred in the impugned judgment and Hon"ble Supreme Court in the cases of Coal India Limited and Others, Vs. Alok Fuels (P) Ltd., th. Director, etc. etc., and in the case of Sushila Chemicals Pvt. Ltd. and Another Vs. Bharat Coking Coal Ltd. and Others, , clearly held that lodging of the F.I.R. by the C.B.I. may be one of the relevant facts of passing suspension order for coal supply.

6. Learned Counsel for the respondent-writ petitioner vehemently submitted that the petitioner"s premises was thrice inspected, one on 22.4.2010, then on 22.9.2010 and lastly on 05.12.2010 and the unit of the respondent-writ petitioner was found running. There was no allegation against the respondent-writ petitioner of black marketing of the coal after purchasing from the appellant.

7. It is submitted that learned Single Judge has carefully considered all facts in the detailed impugned order and thereafter reached to a conclusion that even the supply was suspended in the month of April, 2011 and that too when inspection was conducted on 26.3.2011 and show-cause notice was issued on 01.06.2011 and it is pointed out by the Learned Counsel for the respondent-writ petitioner that the writ petitioner approached this Court by filing writ petition on 03.05.2011, prior to even the order of suspension passed by the appellant and subsequent act of the appellant clearly indicated that the action was not bonafide.

8. Learned Counsel for the appellant submitted that now the agreement itself has been terminated by the appellant vide order dated 27.12.2011 which has been passed after giving opportunity of hearing to the respondent-writ petitioner.

9. Learned Counsel for the respondent-writ petitioner submitted that since the order was passed on 27.12.2011 and the writ petitioner may be taking appropriate steps to challenge this order which has been passed during pendency of this L.P.A. after decision of the learned Single Judge went against the appellant.

10. We have considered the submissions of Learned Counsel for the parties and perused the facts of the case and we may state that none of our observations herein shall be taken against any of the parties, either in this very L.P.A. at the time of final hearing or it may be treated to be an observation affecting the criminal miscellaneous petition preferred by the respondent-writ petitioner or shall affect the investigation which is pending and stayed by the order of the High Court.

11. We found from the allegations levelled in the F.I.R., Exhibit-6, under the heading column-12 of the F.I.R. in R.C. 7(A)/ 2011-(R) that the allegations are not only against the respondent-writ petitioner but also against the officers of the appellant of hatching a criminal conspiracy with the respondent-writ petitioner and this important fact is relevant for time being which may have relevance because of the reason that the joint inspection was conducted on 26.03.2011 and the writ petition was filed on 03.05.2011 and action was taken by the appellant for suspending the coal supply on 09.05.2011 i.e. after delay of about one and a half month and one line order was passed for suspension of supply of coal and thereafter, a show-cause notice containing the reason was given after delay of almost near about one month i.e. on 01.06.2011.

12. The matter is pending before the C.B.I. and investigation has been stayed by the order passed in Criminal Miscellaneous Petition No. 765 of 2011 and this order has been communicated by the C.B.I. to the appellant as " Till next date, there shall be stay of further proceedings against the petitioner." Therefore, in view of the interim order, the C.B.I. cannot proceed, obviously may not be even investigated in the matter and in that situation, we are of the considered opinion that in view of the Hon"ble Supreme Court Judgment referred above, the operation of the impugned order deserved to be stayed, hence, stayed.

13. Learned Counsel for the respondent-writ petitioner submitted that the C.B.I. may be directed to investigate expeditiously and submit its investigation report.

14. Such prayer cannot be accepted in view of the order passed in the Criminal Miscellaneous Petition No. 765 of 2011 filed by the respondent-writ petitioner himself and who himself have approached for stay of the proceeding against him in the said criminal case registered by the C.B.I. Therefore, the respondent-writ petitioner will be free to move before the Bench hearing the Criminal Miscellaneous Petition No. 765 of 2011 for obtaining appropriate order and vacating the interim order.

Put-up for hearing at its own turn.