
(1967) 01 CAL CK 0004
In the Calcutta High Court
Case No : Original Order No. 12 of 1966

Coal Board

APPELLANT

Vs

Banwarilal Agarwalla

RESPONDENT

Date of Decision : 05-01-1967

Acts Referred:

Citation : 75 CWN 854

Hon'ble Judges : Sankar Prasad Mitra, J;S.C. Ghose, J

Bench : Division Bench

Advocate : B. Das, for the Appellant;Ranadeb Chaudhuri and Bikas Chandra Sen, for the Respondent

Final Decision : Dismissed

Judgement

Sankar Prasad Mitra, J.—We have heard the arguments of learned Counsel for the appellant. We see no reason to differ from the judgment of Sinha, J. as he then was, delivered on the 28th July, 1965. It is clear that Rule 39 of the Coal Mines (Conservation and Safety) Rules, 1954, applied to cases of "opening and re-opening of coal mines". The petitioner-respondent's coal mines is not one of such coal mines. Secondly it appears that the provisional certificate was granted after taking into consideration both the seam-samples and the wagon-samples. The consideration of the wagon-samples is not provided in the Rules. The provisional certificate, therefore, was not validly granted. For the final certificate both the seam-samples and the wagon-samples were considered. But since the provisional certificate is bad, the final certificate must necessarily be bad as well. In other words, even if we had held that sub-rule (3) of Rule 39 was independent of Sub-rules (1) and (2) as urged by learned Counsel for the appellant the appeal would not have succeeded. In the result this appeal is dismissed with costs. Certified for two Counsel.

Ghose, J.

I agree.