

(2021) 01 SC CK 0008

In the Supreme Court Of India

Case No : Interlocutory Application Nos. 179704 Of 2018, 54364, 131281, 131288, 150858 Of 2019 In Writ Petition (Civil) No.114 Of 2014

Common Cause

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 06-01-2021

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 8A, 8A(6), 21(5)

Citation : AIR 2021 SC 2866 : (2021) 1 JT 119 : (2021) 1 Scale 389 : (2021) 1 AWC 318

Hon'ble Judges : S.A. Bobde, CJ;A.S. Bopanna, J;V. Ramasubramanian, J

Bench : Full Bench

Advocate : Harish N. Salve, Aparajita Singh, A.D.N. Rao, Siddhartha Chowdhury, Prashant Bhushan, Tushar Mehta, V. Mohna, Atulesh Kumar, R R Rajesh, Rajat Nair, Raj Bahadur Yadav, B.K. Prasad, Tusar Mehta, Aishwarya Bhati, Gurmeet Singh Makkar, Saudamini Sharma, Chinmayee Chandra, Tarkeshwar Nath, Rajat Nair, Atmaram NS Nadkarni, SS Rebello, P.S. Narasimha, Dhananjaya Mishra, Arnav Dash, Aditi Tripathi, Prabhat Kumar Rai, Nitesh Bhandari, Vinit Kumar, Naveen Kumar, Ashok Kumar Panda, Monoranjan Paikaray, Aniruddha Purushotham, Satyabrata Panda, Tejaswi Kumar Pradhan, Raj Kumar Mehta, Gaurav Kejriwal, B. Krishna Prasad, Abhishek Sharma, Sunil Kumar Jain, Ruchi Kohli, Shibashish Misra, Ramendra Mohan Patnaik, E. C. Agrawala, Ashok Panigrahi, Himinder Lal, Mrs. Kirti Renu Mishra, Mukesh Kumar Maroria, Tejaswi Kumar Pradhan, Rameshwar Prasad Goyal, Movita, Mukul Kumar, Balaji Srinivasan, Lakshmi Raman Singh, Naveen Kumar, Gurmeet Singh Makker, Satyabrata Panda, Preshit Vilas Surshe, Hitendra Nath Rath, Uttara Babbar, Sandeep Devashish Das, Dhananjaya Mishra, Annam D. N. Rao, Shovan Mishra, Shadan Farasat

Final Decision : Disposed Of

Judgement

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Â I.A. Nos. 131281 and 131288 of 2019,

1. These applications praying respectively for: (i) intervention in the main matter; and (ii) direction to the State to permit the applicant to sell off the, undisposed stock and for issuance of transfer permits for the removal of ore from the leasehold areas, are taken out by a person claiming to be the",

legal heir and power of attorney agent of the deceased mining leaseholder.,

2. Heard the learned counsel for the applicant, the learned counsel for the State of Odisha, the learned Amicus Curiae and the learned Counsel for the",

writ petitioner.,

3. The claim of the applicant is that one Mr. Suresh Chandra Padhee was the mining leaseholder in respect of Banspani Iron Ore and Manganese,

Mines and the Gurubeda Iron Ore Mines and that in terms of the amended Section 8A(6) of the MMDR Act, 1957, the lease stood extended till",

31.03.2020. It is further claimed by the applicant that pursuant to the directions issued by this Court on 02.08.2017 in Writ Petition (C) No.114 of 2014,"

a demand notice dated 02.09.2017 has been issued by the Government demanding an amount of Rs.1,20,22,711/Âtowards compensation for the",

excess production. This was in respect of Banspani Iron Ore. In respect of Gurubeda Iron Ore Mines, a separate demand notice demanding a sum of",

Rs.27,71,73,835/Â? was issued.",

4. According to the applicant he has already deposited a sum of Rs.1,33,17,910/Â in respect of Banspani Mines and a sum of Rs.1,40,00,000/Â in",

respect of Gurubeda Mines. Petitioner wants permission to remove the ore already mined and lying at site so that the compensation amount could be,

paid to the Government.,

5. The State has filed a reply contending interÂ?alia: (i) that in respect of Banspani Mines, the last lease period expired on 28.11.1993; (ii) that the lease",

is nonÂ?operating ever since 2009 and was declared as lapsed by the proceeding dated 16.06.2015;,,

(iii) that a revision application is pending against the said order;,,

(iv) that in respect of Gurubeda Mines, the last lease period expired on 04.07.2002; and (v) that the mining operation was discontinued from",

30.10.2009 for want of statutory clearances and the revision filed against the same was also rejected.,

6. After stating the above objections, the State Government has also indicated its no objection to the sale of the already raised mineral. Paragraph 6 of",

the reply of the Government reads as follows:

It is further submitted that the State Government may have no objection if the instant case is considered in the ratio of order dated 15.01.2020 of,

Hon'ble Supreme passed in I.A. No.30915 of 2019 filed by M/s Mideast Integrated Ltd. in W.P.(C) No.114/2014 and the applicant is allowed sell,

of raised and disposed stock lying in its mining leases to pay the compensation amount outstanding against it. However, no mining operation may be",

allowed for resumption.",

7. However, it is submitted by Mr. Prashant Bhushan, learned counsel for the writ petitioner that while there could be no objection to the removal and",

sale of the material already mined and kept, there is every likelihood of the applicant misusing even a mere permission to sell the existing stock.",

Therefore, he suggested that the removal of the material and its sale should be under the supervision of an independent Committee of persons, apart",

from the State Government officials.,

8. Since the apprehension is genuine, we appoint Hon'ble Mr. Justice Bijoy Krishna Patel, Chairperson, Odisha Human Rights Commission and",

Hon'ble Mr. Justice S.C. Parija, Former Judge, Odisha High Court as Members of the Committee. Subject to the supervision of the said",

Committee, adequately and ably assisted by the concerned authorities of the State of Odisha, the applicant is permitted to sell and remove the material",

already mined. The Committee shall ensure that no mining operation is undertaken under the cover of this Order. The sale proceeds should go directly,

to the treasury of the State Government to be adjusted towards compensation. The applications are disposed of on the above terms.,

I.A. Nos.179704 of 2018 and 54364 of 2019,

9. These applications are taken out by a leaseholder of Oraghat Iron and Manganese Ore Mines in Tehsil Bonai, District Sundergarh, Odisha praying",

respectively for: (i) condonation of delay in depositing the compensation amount as per the Judgement of this Court in Writ Petition (C) No.114 of,

2014 and for permission to resume mining operations subject to getting all required clearances; and (ii) to take on record certain additional documents,

such as the letter seeking extension of mining lease etc.,

10. According to the applicant, he had a mining lease executed on 06.04.1998 in respect of an area of 25.847 hectares and that as per the Judgment of",

this Court dated 02.08.2017, he was obliged to make payment of the demand on or before 31.12.2017. However, the applicant could not make",

payment within the time stipulated on account of various factors. Hence, the application for condonation of delay and for permission to resume mining",

operations.,

11. The State has filed a reply contending that the applicant does not at all have the requisite clearances to operate the mines and that the mining,

operation, though valid for a period of 20 years from 06.04.1998 to 05.04.2018, the mining operations were stopped on 01.04.2013 for want of",

statutory clearances. According to the State, the applicant is not eligible for extension under Section 8A, as he does not possess the forest clearance.",

12. It is admitted by the State that the petitioner has paid Rs.9,68,08,288/Â including interest of Rs.1,43,08,386/Â towards delay in payment together",

with the demand amount of Rs.8,24,32,549/Â for violation of the Environment Protection Act, 1986 and Forest Conservation Act, 1980. It is also",

admitted by the State that the applicant has paid the compensation amount of Rs.21,12,599/Â including interest of Rs.3,51,264/Â towards delay in",

payment together with the demand amount of Rs.17,60,177/Â? for violation of MP/CTO.",

13. More importantly, it is stated in paragraph 6 of the reply that the applicant has approved mining plan valid upto 31.03.2023, but the environment",

clearance expired on 03.04.2018. The applicant has also not obtained forest clearance in respect of DLC forest land.,

14. From the objections of the State, it appears that the applicant has cleared all monetary liabilities and that what stands as an impediment is the",

nonÂavailability of statutory clearances. Therefore these applications are disposed of permitting the State Government to process the application,

subject to all types of statutory clearances being obtained.,

I.A. No.150858 of 2019,

Grades (% of FE content),Closing stock at mine site (MT)

60% to below 62%,1812.000

62% to below 65%,8489.180

65% and above,18107.145