

(2011) 09 JH CK 0100

In the Jharkhand High Court

Case No : Writ Petition (PIL) No. 1783 of 2011

Court on its Motion

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 07-09-2011

Acts Referred:

Citation : (2011) 4 JCR 290

Hon'ble Judges : P.P. Bhatt, Acting C.J.

Bench : Single Bench

Judgement

P.P. Bhatt, A.C.J.

1. This Court took cognizance of unauthorized occupation of the properties of four big Public Sector Undertakings, namely, Heavy Engineering Corporation, Central Coalfields Limited, Bharat Coking Coal Limited and Bokaro Steel Limited on 4th April, 2011 and directions were issued to remove encroachments from the properties of these four public sector undertakings. The matter was handed over to CBI and the facts which have been revealed by the CBI fully justified for taking action by the Court. The gravity of illegalities can be well assessed from the chart which we are mentioning below in this order:

Sl. No.

Name of the PSU/Case No.

No. of dwelling units under unauthorized occupation

No. of plots of land under unauthorized occupation

Amount of expenditure incurred on the electricity and water consumed by the unauthorized occupants

Amount of expenditure incurred on the maintenance of dwelling units unauthorizedly occupied.

1.

CCL/

PE2(A)/2011-AHD-R

15317

6960 plots

32,14,97,250/-

(during last year)

93,58,378/- (during last ten years)

2.

HEC/

PE3(A)/2011-AHD-R

243

472.12 acres

7,18,365/- (during last ten years)

Nil

3.

BSL/

PE4(A)/2011-AHD-R

162

2086.39 acres

3,37,376/- (during last four months)

Nil

4.

BCCL/

PE5(A)/2011-AHD-R

18100

31223 plots

1,09,28,01,431/- (during last ten years)

Nil

2. It is submitted by the counsel for the parties that these Public Sector

Undertakings are under the control of concerned Ministries i.e., Ministry of Coal, Ministry of Heavy Industries and Ministry of Steel. In view of the above fact, we believe that there must be some auditing of these companies by higher authorities, which may include even CAG and if these companies are not subject to check and audit by the CAG, even then they are under the control of very high officers under the Central Ministries and under them about 34,000/- dwelling units have been unauthorizedly occupied by not only by employees or labourers or workers but also by high ups who have been identified by the CBI as "dignitaries", which includes Member of Parliament, Deputy Chief Minister, Superintended of Police, I.A.S officers, Leaders of Political Parties, Former M.L.A.s, Union Leaders, Press Reporters etc. etc. Not only this but total number of plots 31223 of BCCL have been encroached upon by unauthorized elements. In addition to above, 69960 plots have been encroached in the properties of CCL. This is the state of affairs in relation to only four Public Sector Undertakings and that too only over the properties of these Public Sector Undertakings situated only in one city i.e., Ranchi in the State of Jharkhand. Shockingly the amount of Rs. 1,09,28,01,431/- has been paid by this Public Sector Undertaking (BCCL) for Electricity and Water charges for these encroachers with expenditure incurred on the maintenance of dwelling units unauthorizedly occupied to the extent of Rs. 93,58,378/- for unauthorized occupants of one company, CCL and details of others are not available.

3. This raises a serious question about the working of these four companies in dealing with the money invested by the Central Government as well as the questions seriously arises about total lack of governance in the matter of dealing with the properties of the Public Sector Undertakings. We passed the detailed order on 13th June, 2011 and took note of other facts and directed the CBI to disclose the names of the dignitaries and the CBI disclosed the names of dignitaries which are referred above. Then this Court directed to take action against those dignitaries, upon which from the premises of one company only, possession has been taken from so called dignitaries, but possession from other alleged dignitaries have not been taken by other companies.

4. On 11th August, 2011, I.A. No. 2437 of 2011 has been submitted by the Bharat Coking Coal Limited (in short "BCCL") and it has been pointed out that certain areas of BCCL is under fire as fire broke under the earth in the coal resulting into taking immediate action and matter came up before the Hon"ble Supreme Court in W.P.(C) No. 381 of 1997 (Haradhan Roy v. UOI and Ors.) wherein the company BCCL submitted an action plan before the Hon"ble Supreme Court and the State of Jharkhand and also the State of West Bengal gave their approval for the action plan. In that situation, the Hon"ble Supreme Court on 6th February, 2004 after recording the consent of the State of Jharkhand and West Bengal ordered that " we are of the opinion that the initiative must be taken by all concern to implement the action plan immediately. We, therefore, direct that the Government of India to take such steps as are necessary for giving effect to the said plan. A report as regards the action taken

in the matter may be filed before this Court within two months." After passing the said direction, Hon''ble Supreme Court permitted Jharia Coalfields Bachao Samiti to file its objection; obviously against the action plan. Then, on 3rd May, 2005 Hon''ble Supreme Court took note of the fact that an affidavit has been filed on 17th September, 2004 showing the status report and steps taken pursuant to the action plant of July, 2002 and thereafter appointed the Director General of Mines, Safety, Dhanbad to go through the action plan and subsequent affidavit filed by Union of India in respect of the steps taken pursuant to the said action plan to verify the same and file a report to the Supreme Court within three months from the date of that order. Therefore, it is clear that the matter relating to the BCCL is pending before the Supreme Court. In view of the above fact, the BCCL was bound to follow the directions given by the Hon''ble Supreme Court and subject matter, area and the persons who are covered in the order passed by the Hon''ble Supreme Court in W.P.(C) No. 381 of 1997 pending before the Hon''ble Supreme Court are not affected by any order passed by this Court in this Public Interest Litigation or any other Public Interest Litigation, W.P. (PIL) No. 1076 of 2011. Learned Counsel for the BCCL drew our attention to the master plan/action which has been submitted to the Hon''ble Supreme Court, copy of which has been placed on record along with I.A No. 2437/2011 and pointed out that this action plan was required to be implemented in 10 years including two years for pre-implementation activities. It is also pointed out that in the above action plan, it has been clearly indicated at column No. 7.1 that total number of houses proposed to be evacuated from 532 sites are 65300, which includes as under:

BCCL House

-

36208

Non-BCCL: Private Houses

-

15571

Non-BCCL: Unauthorized House

(Encroacher)

12719

Others:

(Religious places, schools Hospitals

Post Offices, Police Stations etc.)

802

5. Learned Counsel for the BCCL submitted that it was brought to the notice of the Hon'ble Supreme Court that apart from houses of BCCL which are 36,208, there are also 15,571 non BCCL houses, and even there are houses of the persons who have unauthorizedly encroached and constructed houses and there number is 12,719. It is apparent from this report that these details were with respect to only 532 sites, wherein because of huge fire, the area became totally unsafe and apart from 532 sites there are 121 sites which are in controllable position. It appears that because of this reason the number of houses of encroachers and private houses are not being given which are in those 121 sites. Then after taking into account other facts at page 41 of the report, it has been stated that total houses in endangered area are 98314, the details of which are as under:

BCCL House

-

44155

Non-BCCL: Private Houses

-

29444

Non-BCCL: Unauthorized House

(Encroacher)

23847

Others:

(Religious places, schools Hospitals

Post Offices, Police Stations etc.)

868

6. At column 7.2.1 at page 42 it has been projected that the BCCL will require to have 25,000 house for BCCL employees. However, in addition to above, it has been supposed to construct 29444 houses for non-BCCL private houses, 23847 houses for Non-BCCL unauthorized houses (encroachers) and 868 for others as referred above. Therefore, according to the BCCL the BCCL should provide houses for private persons to the extent of 29444 and even for encroachers to the extent of 23847. In column 7.9 at page 54 of the action plan, it has been provided that the action plan will have to be implemented in ten years excluding two years of pre-implementation activity.

7. In this action plan, the BCCL will be providing land for houses for encroachers to the extent of 310.01 hectares and in total it has been disclosed that total requirement of land as estimated shall be 1504.99 hectares and 400.00 hectares of

land is required for resettlement of BCCL house and 1104.99 hectares for Non-BCCL houses.

8. Since the matter of removal of encroachment from the land of these Public Sector Undertakings, including the BCCL was under consideration before this Court in W.P. (PIL) No. 1783 of 2011 and two orders passed in W.P.(PIL) No. 1076 of 2011, the above facts have been taken on record by us to make it clear that the order passed by this Court in these petitions are for the encroachers and illegal occupants for whom eviction drive has also been started and even the Central Ministries has accepted to implement it in various communications, one of which is Communication dated 28th July, 2011 sent by the Ministry of Coal conveying the minutes of the meeting held on 11th July, 2011 to deal with the issue of unauthorized occupation in BCCL and CCL land, copy of the action plan is also annexed with the 5th Supplementary counter affidavit filed in this petition by CCL.

9. After making it clear that our orders shall be with respect to the persons who are not covered by any order passed by the Hon''ble Supreme Court in the writ petition pending before the Hon''ble Supreme Court, details of which we have already referred, the BCCL shall now proceed to take action according to the decision by them to evict unauthorized occupants and shall submit the report to this Court by 11th October, 2011. The BCCL, CCL, BSL and HEC shall also disclose whether these companies are under scanner of CAG or not and if their activities were scanned by CAG, then what was the observation of CAG on the issue of property management and about expenditure incurred by those companies for payment of electricity, water and maintenance charges and about non recovery of rent from encroachers?

10. Put up this case on 11th October, 2011.

11. Copies of the orders may be provided to the counsel for the State as well as to the counsel for the four companies.