
(2021) 02 JH CK 0133
In the Jharkhand High Court
Case No : Writ Petition(C) No. 509 of 2021

Hindalco Industries Limited	Vs	APPELLANT
State of Jharkhand & Ors.		RESPONDENT

Date of Decision : 15-02-2021

Acts Referred:

Forest (Conservation) Act, 1980 — Section 2

Citation : (2021) 02 JH CK 0133

Hon'ble Judges : Rajesh Shankar, J

Bench : Single Bench

Advocate : Indrajit Sinha, Mohan Dubey

Judgement

1. The present writ petition is taken up today through Video conferencing.
2. The petitioner has filed the present writ petition with the following prayers:-
 - (i) For making declaration that the coal mined from Kathautia opencast coal mine situated over non-forest/non jungle-jhari area is not a "forest-produce" and as such no fee under the Jharkhand Forest Produce Transit (Regulation of Transport) Rules, 2020 (in short 'Rules, 2020') is leviable;
 - (ii) For quashing the letter no.3145 dated 13th October, 2020 (Annexure-9 to the writ petition) issued by the Joint Secretary, Department of Forest, Environment & Climate Change, Government of Jharkhand, Ranchi to the Central Coalfields Limited, Darbhanga House, Ranchi, whereby after interpreting the judgment of the Hon'ble Supreme Court rendered in the case of State of Uttarakhand & Others vs. Kumaon Stone Crusher has communicated that coal in all its form is "forest-produce" upon which transit permit fee under the Rules, 2020 will be payable;
 - (iii) For quashing the letter no.4003 dated 27th October, 2020 (Annexure-3 to

the writ petition) issued by the Divisional Forest Officer, Medininagar

Forest Division, Medininagar, whereunder it has been stated that the coal is covered within the definition of ""forest produce"" and has inter alia directed

the petitioner to deposit transit fee on coal;

(iv) For quashing the letter no.4262 dated 13th November, 2020 (Annexure-5 to the writ petition) issued by the Divisional Forest Officer, Medininagar

Forest Division, Medininagar whereunder after interpreting the judgment of the Hon'ble Supreme Court rendered in the case of State of Uttarakhand

and Others vs. Kumaon Stone Crusher and relying upon letter no.3145 dated 13th October, 2020 issued by the Joint Secretary, Department of Forest,

Environment & Climate Change, Government of Jharkhand, Ranchi to the Central Coalfields Limited, Darbhanga House, Ranchi has reiterated that

coal is ""forest produce"" and directed the petitioner to deposit transit fee under the Rules, 2020;

(v) For quashing the letter no. 4453 dated 7th December, 2020 (Annexure-6 to the writ petition) issued by the Divisional Forest Officer, Medininagar

Forest Division, Medininagar directing the petitioner to deposit transit fee on coal under the Rules, 2020, failing which appropriate penal action would

be taken;

(vi) For quashing the letter no.4557 dated 17th December, 2020 (Annexure-8 to the writ petition) issued by the Divisional Forest Officer, Medininagar

Forest Division, Medininagar to the petitioner stating that coal is ""forest produce"" irrespective of its origin i.e., from forest land/non-forest land and

directing the petitioner to report on the quantity of coal transported by the petitioner since 1st October, 2020 till date and to deposit transit fee

thereupon under the Rules, 2020, failing which penal action would be taken.

3. Learned counsel for the petitioner submits that presently the mining activities are being carried out in Kathauatia opencast coal mine situated over

the land which is undisputedly a non-forest land. Since no mining activity is being carried out in the forest land, there is no reasonability in issuing the

impugned letters by the respondents including the letter dated 17th December, 2020 issued by the Divisional Forest Officer, Medininagar Forest

Division, Medininagar-the respondent no.4 directing the petitioner to obtain transit permit on payment of transit permit fee. It is further submitted that

the petitioner has earlier filed a writ petition before this Court being W.P.(C)

No.6046 of 2017 challenging the order as contained in memo no.4008 dated 3rd August, 2017 issued by the respondent no.4, whereby it was directed to forthwith stop the mining activity and to seek permission from the Union of India so as not to violate the provisions of Section 2 of the Forest (Conservation) Act, 1980 as well as for quashing of the order as contained in letter/memo no.1912 dated 9th October, 2017 issued by the Deputy Commissioner, Palamau, whereby the petitioner was further asked to stop mining operation in Kathautia Coal Block.

Learned counsel for the petitioner further submits that this Court vide order dated 13th October, 2017, while keeping in view the undertaking of the petitioner that it would not carry out any mining operation so far as 344.16 acres of leased area said to be recorded as 'Jungle Jhari' in the earlier

survey, has stayed the operation of letter dated 3rd August, 2017. It is also submitted that this Court, in various other writ petitions led by W.P.(C)

No.3505 of 2020, has passed interim order dated 15th December, 2020 directing the respondent-authorities not to take coercive action for

transportation of coal from the respective mines in pursuance of the impugned letters issued by them for payment of transit payment fee. Hence, the

petitioner may also be protected from the action being taken by the respondent no.4 in terms with the impugned letter as contained in letter no.4557

dated 17th December, 2020.

4. Mr. Mohan Dubey, learned A.C. to A.G. though opposes the interim order as prayed by the learned counsel for the petitioner, yet he accepts the

fact that this Court vide order dated 15th December, 2020 has passed interim order in similar writ petitions being W.P.(C) No.3505 of 2020 along with

W.P.(C) No.3529 of 2020 and the said cases have been listed on 16th March, 2021. He further prays for four weeks' time to file a detailed counter

affidavit on behalf of the respondents.

5. In view of the said prayer, put up this case on 16th March, 2021 along with W.P.(C) No.3505 of 2020 and other analogous cases.

6. Till then, the respondent no.4 shall not take any coercive step against the petitioner in pursuance of the impugned letter no.4557 dated 17th

December, 2020 (Annexure-8 to the writ petition).