

(1984) 02 AP CK 0019

In the Andhra Pradesh High Court

Case No : Writ Petition No's. 3947 and 3948 of 1982

Krishna Coal Site Industry

APPELLANT

Vs

The Singareni Collieries Co. Ltd. and Another

RESPONDENT

Date of Decision : 03-02-1984

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1984 AP 208

Hon'ble Judges : Ramachandra Rao, J;Anjaneyulu, J

Bench : Division Bench

Advocate : C.P. Sarathy, for the Appellant; Addl. Standing Counsel for Central Government, for the Respondent

Judgement

Y.V. Anjaneyulu, J.—The petitioner in Writ Petition No. 3947 of 1982 is Krishna Coal Site Industry, Mancherial, represented by its proprietor, Ghansham Das. The petitioner in Writ Petition No. 3948 of 1982 is Jagadamba Coke and Briquette Industry, represented by its proprietor, Chandulal. Sri C. P. Sarathy, learned counsel representing the petitioners in both the writ petitions stated that the facts in both the writ petitions are identical. He dealt with the facts in Writ Petition No. 3947 of 1982 and submitted that the decision of this Court in the said writ petition will also govern automatically Writ Petition No. 3968 of 1982. No separate submissions are made in so far as Writ Petition No. 3948 of 1982. In the circumstances, both the writ petitions are disposed of together. The facts in Writ Petition No. 3947 of 1982 are dealt with and the decision will govern both the writ petitions.

2. The petitioner secures supplies of round coal from Singareni Collieries Company Ltd., the 1st respondent herein (for short "the company") and manufactures smokeless coal, which is used as domestic fuel by consumers including number of hotels and industries. The petitioner is treated as a small scale industry, which was established in 1972 at Mancherial and which was duly registered with the Small Scale Industries Department. The petitioner supplies

smokeless coke to a large number of consumers spreading over Adilabad Karimnagar, Nizamabad, Warangal and Hyderabad districts. The petitioner made representations for supply of 500 Metric Tons of round coal every month. The company has coal mines in Kothagudem, Yellandu, Manuguru, Ramagundam, Bellapalli, Mandamarri and Ramakrishnapur. On 28th August, 1974, the company issued instructions to its Joint Chief Mining Engineer to supply 250 Metric Tons of round coal at pit-head delivery to six persons whose names are specified in the said letter including the two writ petitioners. It is stated that, although the supplies of round coal were irregular by and large, supplies were forthcoming from the company till about 1979. By December, 1979, the supply was reduced to 50 Metric Tons per months. It is also stated that the Company changed the procedure of collection of cost of coal. Previously, the petitioner was paying the price at Mandamarri itself. It appears that the petitioner was asked to pay the price at Hyderabad office, instead of at Mandamarri. After the supply of round coal was reduced as above, the petitioner made innumerable representations to increase the quota of supply, but without success. The petitioner's request to the company for enhancement in the supply of round coal was strongly recommended and supported by the Executive Officer of the Gram Panchayat of Naspur, General Manager of the District Industries Centre, Adilabad, M.L.A. of Luxettipet, Adilabad district and M.L.A. of Cherial Constituency. The Director of Industries and Commerce, whose recommendation is relevant for the purpose, recommended to the company for the supply of 300 Metric tons of round coal per month to the petitioner. After receiving the above representations from the petitioner and noticing the recommendations for enhancement in the supply of round coal, the company referred the matter to its Sales Officer for inspection and report. It is stated that, in December, 1981, the petitioner-unit was inspected by the Sales Officer and, in his report dated 8-4-1982 submitted to the company, the Sales Officer recommended supply of only 70 Metric Tons of round coal per month to the petitioner. The company resisted the claim for larger supplies on two grounds: firstly, it is stated that, although the production of coal increased, the demand for supply of round coal also increased. The production is not commensurate with the increase in the demand. It is stated that the Government of India laid down certain priorities for the supply of coal and the company was under an obligation to supply the coal strictly according to the priorities laid down by the Government of India. Since the company could not cope up with the increase in the demand for supply of coal, it was not in a position to supply coal to all categories of consumers according to their demand. The second ground was that supplies to various categories of consumers were based on the off-take of coal by the respective consumers and the supply to the petitioner was fixed at 50 Metric Tons and increased to 70 Metric Tons per month later on based on the off-take of coal by the petitioner between 1974 and 1978. It was pointed out that, between 1972-73 and 1978-79, the petitioner's off-take of coal was only 5,358 Metric Tons and the average worked out to 765 Metric Tons per year. The company informed the petitioner that, based on the above off-take of coal, there was no justification for increasing the quota of supply of coal

beyond 70 Metric Tons as was already done. The petitioner resisted this claim of the company by pointing out that the figures of off-take of coal represented the supplies actually made by the company against the demand for supply of a larger extent of coal. The petitioner brought to the notice of the company instances where requests for supply of larger quantities of coal were made and amounts paid in advance and yet the company did not supply the coal as per the demand. The petitioner contended that there is no justification for fixing the quota of supply of coal at 50/70 Metric Tons based on the arbitrary supplies, made by the company. According to the petitioner, it was in need of much larger supply of coal to meet the demands of its customers and because of the non-supply of coal by the company, the petitioner was obliged to purchase the coal at higher prices in order to meet the demands of its customers. The petitioner contends that it is one thing to say that the off-take of coal from the company was not much because of the unwillingness of the company to supply larger quantity of coal and quite a different thing to say that the business conducted by the petitioner is not capable of consuming larger quantity of coal. When the company did not favorably respond to the request for reconsideration and increase the supply of round coal to at least 300 Metric Tons per month, the petitioner had notices issued by its Advocate drawing attention of the company to the supply of large quantities of coal to newcomers enjoying lower priority than the petitioner and to a host of instances of supplies of coal by the company to dealers who had been appointed subsequent to 1979. The petitioner contended especially that most of these dealers were bogus and fictitious persons having no coal depots or regular business premises and large supplies of coal were made to these dealers by the company for collateral reasons rejecting the legitimate request for larger supplies to the petitioner, who is a small scale industry and who has been in business since 1972 and to whom even the company directed the supply of 250 Metric Tons of round coal from 1974. On the company's reluctance to reconsider the matter and increase the supply of coal to the petitioner, this writ petition was eventually filed in this Court praying inter alia for a direction to the company to supply 300 Metric Tons of round coal per month from Mandamarri Screening Bunker and also to receive the price of the coal in Mandamarri Divisional office of the company, instead of at Hyderabad office. In the writ petition, the petitioner also claimed that Section 3 (a) (b) (c) and (e) of the Monopolies and Restrictive Trade Practices Act, 1969 is null and void in regard to the restrictive trade practice and monopolistic trade practice indulged in by the Government-owned and controlled companies including the 1st respondent-company and is violative of Articles 14, 19(1)(g) and 39 of the Constitution of India.

3. Learned counsel for the writ petitioner, Sri C. P. Sarathy, has traversed substantially the same ground in his arguments. He invited attention to the averments in the writ petition to the averments in the writ petition and to the chain of correspondence that passed between the petitioner and the company, in support of his plea that the company acted arbitrarily in cutting short the supply of round coal to the petitioner. Sri Sarathy claimed that the plea of non-

availability of coal is belied in face of larger production of coal by the company and also having regard to enormous supplies of coal being made by the company to a large number of newcomers into the field as dealers. Sri Sarathy contends that, if the company was not in a position to supply coal as per the demands of the consumers already existing, there is hardly any justification for making supplies to the newcomers ignoring the just claims of small scale industries like the petitioner, who deserve all encouragement at the hands of the company. Sri Sarathy made pointed reference to the instances furnished to the company even before the filing of the writ petition and also to the averments made in the writ petition alleging that the company was supplying coal to bogus and fictitious persons. When these instances were brought to the notice of the company through correspondence, the Advocate representing the company wrote back to the petitioner's Advocate stating that it is not the business of the petitioner to question the manner in which the company has been effecting supplies of coal to its customers and the petitioner has no right to make comment in these matters. When these averments were made in the writ petition, Sri Sarathy points out the company did not choose to specifically deny these allegations. Sri Sarathy, therefore contends that the petitioner's allegation regarding the supply by the company of coal to non-existent and fictitious persons stands un rebutted. It is therefore claimed that the refusal by the company to increase the supply of coal to the petitioner and others in accordance with their legitimate requirements is for the collateral purpose of diverting supplies through bogus and non-existent persons. Sri Sarathy contends that the reasons are obvious. Sri Sarathy reiterated the plea that the supply of coal to the petitioner based on the off-take is unsupportable because the company, for its own reasons, declined to supply the coal as per the demands made by the petitioner. Having arbitrarily reduced the supplies, the company is not justified, according to Sri Sarathy, in extending the principle of supplies to the customers made on the off-take basis. Sri Sarathy contends that, as between persons similarly placed, there is a discrimination shown by the company in the sense that full supplies are being made to persons who are in the good books of the company and, therefore, their off-take figures are high and large supply of coal is continued in their favour as against persons to whom supplies were arbitrarily cut, because the company is not favourably disposed towards them. By relying on the supplies based on the so-called principle of off-take, the company is practising discriminatory treatment as between various customers and, according to Sri Sarathy, this offended Article 14 of the Constitution. Sri Sarathy contended that the company is wholly owned by the State and Central Government and it is under an obligation to treat all the customers alike and any discrimination practised by the company in the supply of coal militates against equal treatment. Sri Sarathy also reiterates that the company has unjustifiably disregarded the recommendations made by several authorities including the Director of Industries, whose recommendation is considered essential even by the company itself. Finally, Sri Sarathy contended that the alleged report of the Sales Officer regarding inspection and recommendation for supply of 70 Metric Tons of coal is

a colourable one, because there was no joint inspection made and the petitioner was not informed about the basis on which the Sales Officer recommended the supplies at only 70 Metric Tons per month. The enquiry into the matter was made⁴ behind the back of the petitioner, Sri Sarathy contends, and the petitioner is therefore, not bound by the same. For the aforesaid reasons, Sri Sarathy invites us to hold that the company has practised discriminatory treatment in the matter of supply of coal to various constituents justifying intervention and to issue a direction to the company to supply 300 Metric Tons of round coal per month to the petitioner, as prayed for in the writ petition. Sri Sarathy also raised a plea that the refusal to supply coal from the Mandamarri pit-head was only to cause inconvenience to the petitioner and so also the direction of the company to pay the price of coal at Hyderabad office, instead of at Mandamarri. Sri Sarathy contended that there were other persons to whom the company was supplying coal from the Mandamarri pit-head and there is no justification for asking the petitioner to life its supplies from Ramakrishnapur mine, which is inconvenient. Sri Sarathy contended that no inconvenience is caused to the company for collecting the price of coal at Mandamarri and that the direction of the company to pay the price at Hyderabad office is causing considerable hardship to the petitioner.

4. In regard to the contention that certain provisions contained in Section 3 of the Monopolies and Restrictive Trade Practices Act are violative of Article 14 of the Constitution, Sri Sarathy did not lay much stress on this contention and indeed did not press the matter for consideration by this Court.

5. Sri M. Ramamohana Rao, learned counsel appearing for the 1st respondent-company, urged that, on the facts and in the circumstances stated in the counter-affidavit, the company was really not in a position to supply more coal to the petitioner than what was being supplied. Apart from this, the learned counsel stated that, in fixing 50/70 Metric Tons per month of round coal to be supplied to the petitioner, the company has taken into account the performance of the petitioner and no exception could be taken to the quantity fixed for purposes of supply. In the first place, Sri Ramamohana Rao urges that what was directe⁴d to be supplied by the company to the petitioner in August 1974 was not in any strict sense of the terms "quota". On the basis of the representations made, direction were given departmentally for the supply of 250 Metric Tons of round coal to the petitioner. Those directions, learned counsel contends, did not fix the company for all time for supplying the same quantity, it is stated that there is no agreement between the company and the petitioner governing terms and conditions of supply or fixing quantity to be supplied for any length of period. According to the Counsel, this is not a case where there are any contractual obligations existing between the company and the petitioner and the petitioner has, therefore, no enforceable right against the company for the supply of any fixed quantity of coal. In the absence of any right, whether express or otherwise, the petitioner cannot be heard to complain in this Court that the company did not supply to him any specific quantity of round coal for purposes of its business. The

company is under an obligation to supply coal to several consumers according to the priorities prescribed by the Government of India. There was heavy pressure on the company for the supply of coal to the Railways, powerhouses, cement factories, textile mills, paper mills, chemical industries etc., enjoying high priority. Allocations were made for supply among different categories of coal consumers and the company had no choice to infringe these allocations between the various categories of consumers and supply coal according to the demands of the consumers. The petitioner came within the category of small scale industries enjoying priority No. 2. According to rules governing the supply of coal to consumers falling under this category, there was a set procedure which was scrupulously followed. Whenever requisitions for enhancement in the supplies are received in the prescribed pro forma accompanied by the recommendations of the Director of Industries, the company refers the matter for a joint inspection. The inspection was carried out by the Sales Officer of the company in the presence of the representative of the petitioner and a representative of the Director of Industries, whenever possible. After personally acquainting himself with the actual requirements of the petitioner, the Sales Officer submits a report and makes appropriate recommendations based on which coal is supplied by the company. In making recommendations, one of the important aspects taken into consideration is the off-take of coal in the past years by the consumer. Learned Counsel draws attention that, in the present case, the off-take of coal by the petitioner was much less than what was directed to be supplied in August, 1974. It is pointed out that, even according to the petitioner, there was no real difficulty in the supply of coal till about December, 1979, and the averments in the writ petition proceed on the basis that, by and large, what was required to be supplied to the petitioner till about 1979 was supplied. The complaint was only that supplies were not regularly forthcoming. Learned Counsel draws attention to the particulars of off-take of coal mentioned in paragraph 8 of the counter-affidavit by the 1st respondent-company and claims that the off-take of coal by the petitioner was far below the quantity of 3000 Metric Tons per year directed to be supplied in August, 1974. In the years 1974-75, 1975-76, 1976-77, 1977-78 and 1978-79, the off-take of coal by the petitioner was 1,539.02 M.Ts. 538.98 M.Ts. 335 M. Ts. 96 M.Ts., and 287.17 M.Ts., respectively. These figures of off-take undoubtedly reveal that, even when the company directed the supply of coal at 250 Metric Tons per month, the petitioner was not able to draw those supplies. Counsel denies the allegation of the petitioner that, even during the period prior to December 1979, supplies were not in accordance with the direction given in August, 1974 for the supply of 250 Metric Tons. The learned counsel invites attention to the following observations contained in paragraph 3 of the writ petition.

From 28-8-1974 to 1976-77, the petitioner was getting the supply of 250 Metric Tons of round coal per month at Mandamarri. Later there was irregular supply. By the end of December, 1979, the supply was reduced to 50 Metric Tons per month.

Based on the above averments in the writ petition, the learned counsel points

out that, even according to the petitioner, there was no difficulty in the supply of the quantity of coal till December, 1979. The averment in the writ petition that, from 28-8-1974 to 1976-77, the petitioner was getting the supply of 250 Metric Tons of round coal per month was obviously incorrect, learned counsel points out, because in 1975-76, the off-take was only 538.98 Metric Tons and in 1976-77, the off-take was only 335 Metric Tons. The off-take fell to an incredibly low figure of 96 Metric Tons in 1977-78 and 287.17 Metric Tons in 1978-79. The learned counsel denies that the petitioner had paid moneys in advance for the supply of 250 Metric Tons and there was failure on the part of the company to supply the coal. The learned counsel also refutes the allegation that supplies prior to December, 1979, even on the own admission of the petitioner, were arbitrarily cut by the company. The learned counsel states that there was no discriminatory treatment meted out to the petitioner in fixing the quantity of coal to be supplied firstly at 50 Metric Tons and alter at 70 Metric Tons per month because these quantities were fixed on the basis of a principle uniformly followed in the case of all consumers of coal based on the off-take of each consumer. The same principle had been applied in the case of the petitioner also and, consequently, there was no room for any grievance that the petitioner had been discriminated against inn the matter of supply of coal. The learned counsel placed before us statements prepared by the company for various districts fixing up quantities of supply of coal. These statements would show figures of previous monthly off-take, quantity recommended and the off-take and the quota fixed. Based on these statements, the learned counsel contended that the company followed a uniform policy of fixing supplies of coal with reference to the recommendations of the joint terms" inspection reports and the previous monthly off-take of coal. The learned counsel urges that supplies of coal to a dealer fell in a distinct and separate category. According to him, dealers supply coal not only to individual consumers, but also to small scale industries like the petitioner and consequently, supplies of coal to dealers were, in the very nature of things, larger than the supplies to the small scale industries as such. Adverting to the supplies of large quantities of coal to dealers, learned counsel fairly agreed that, although there was no specific denial of the allegation that they are all non-existent and bogus firms and the supplies to such industries and dealers were for collateral reasons, there was a denial in general terms in para 1 of the counter. The company proceeds on the basis of representations made by consumers. If, in some cases, there were discrepancies, it does not mean that there was inherent fault in the system of supply. learned counsel also contends that, whenever it came to the notice of the company that persons, to whom coal was being supplied, were not either properly utilising the same or their credentials were questionable, supplies were immediately stopped. learned counsel finally urged that, even assuming that there were a few discrepancies in the matter of supplies here and there in a vast organisation like the 1st respondent-company, it cannot be said that the principles uniformly applied by the company in the matter of supplying coal to the various categories of consumers suffer from any infirmity or that the principles lend support to a plea that the company practised

any discrimination as between its various customers. Sri Ramamohana Rao urges that this Courts should consider the matter on broad principles to examine the question whether the 1st respondent-company is guilty of any discriminatory treatment, as alleged by the petitioner. As regards the supply of coal at Mandamarri pit-head learned counsel contended that the company has various mines and it is found convenient to supply coal to the petitioner from Ramakrishnapur mines. It is claimed that supplies of coal from Mandamarri division were stopped to almost all the consumers from January, 1979, as the law and order situation was not good at that division. It is stated that the members of the Additional District Clay Industries association had made some special representations for the supply of coal from Mandamarri division and on a special consideration, the members of the above association were being supplied coal from the Mandamarri division. The learned counsel contends that there was inconvenience to the 1st respondent-company in supplying coal from Mandamarri division and hence there was no substance in the petitioner's plea that coal should have been supplied only from Mandamarri division and not from Ramakrishnapur division. Likewise, the counsel states that collection of corresponding price of coal supplied at Hyderabad office is far more convenient to the 1st respondent-company and the petitioner could not be permitted to pay the price at Mandamarri division. On the aforesaid grounds, the learned counsel contended that there was no substance in the petitioner's plea that the supply of round coal to the petitioner at the quantities fixed from time to time by the 1st respondent-company was violative of any rights possessed by the writ petitioner.

6. We have set out the facts and the contentions of the respective counsel in some detail, so that the real controversy falling within the scope of the writ petitions is identified. The basis question that falls to be considered for disposing of those writ petitions is whether the 1st respondent-company has been meting out discriminatory treatment to different categories of consumers in the matter of supplies of coal. If the principles governing the supply of coal by the 1st respondent-company reveal ex facie such discriminatory treatment, then the writ petitioner is bound to succeed in his contention that the company has not been treating all the consumers equally. It should be remembered that the 1st respondent-company is a wholly owned undertaking of the Central and State Governments and is bound to observe all the norms to dispel any allegation of discriminatory treatment of its consumers. Two things broadly emerge from the facts stated above. Whenever a request for increase in the supply of coal is received by the company accompanied by appropriate recommendation of the Director of Industries and Commerce, the application is scrutinised and referred for joint inspection by a team consisting of a Senior Sales Officer of the company, a representative of the consumer and, whenever possible, a representative of the Director of Industries and Commerce, who makes the recommendation for increase in the supply, this joint team, it would appear, examined the matter from different points of view, such as the supply legitimately required for meeting the business needs of the consumer, the potential of increased business

activity and the past performance mainly evidenced by the off-take of coal in the past years. Based on these guidelines, a report is submitted to the company by its Sales Officer after joint inspection. The recommendations of the joint inspection team are processed in the office of the 1st respondent-company and a decision is taken regarding the extent of coal to be supplied to the various consumers falling under different categories. It appears that, in finally determining the quantity of coal to be supplied, the past performance of the consumer represented by the off-take of coal in the past years is given weighty consideration. Sri Ramamohana Rao, learned counsel for the 1st respondent-company, placed before us statements running into several pages prepared by the company in a tabular form detailing therein the name of the industry, nature of business activity, previous monthly off-take, quantity recommended by joint team and quota finally fixed. These statements are prepared districtwise and reveal particulars relating to thousands of consumers of coal. On a perusal of the particulars contained in these statements, we are satisfied that the company has been following a uniform policy of fixing the quota of supplies taking mainly into consideration the previous monthly off-take figures of coal and also the recommendations of the joint team. In a number of cases, we find that provisional quotas were fixed pending receipt of joint team inspection reports and also in a number of cases, the matters were referred for re-inspection. It, therefore, follows that the quantity of coal to be supplied to the consumers falling under different categories is not fixed by the 1st respondent-company in an arbitrary manner. The quantities are fixed with reference to certain principles, which are uniformly applied to all consumers. So long as uniform policy and principles are applied by the 1st respondent-company for fixing the quotas of supply to various consumers, it is difficult to accept the contention of the petitioner that the supplies entered into the questionable area of arbitrariness, because it happens that, in a few individual cases, either the principles worked hardship or there was inadequate consideration of circumstances having a bearing on the determination of the quotas fixed by the company. In exercising extraordinary jurisdiction under Article 226 of the Constitution of India, this Court can only look into the policy and principles followed by the 1st respondent-company in fixing the quotas of supply. It is not permissible to scrutinise individual cases of hardship and grievances in view of the limited nature of jurisdiction that Courts exercise under Article 226 of the Constitution. Nor is it possible to enter into a detailed investigation of the various facts which are in dispute. These are matters not falling within the strict limits of extraordinary jurisdiction under Article 226 of the Constitution. We have taken note of the representations earnestly made by Sri C. P. Sarathy, counsel for the petitioner, in support of his plea that, fixing, in the petitioner's case, the quota on the basis of the previous off-take figures of supply of coal had no meaning because the company did not supply the full quantity of coal for which requests were made. Sri Sarathy pointed out that, although in August, 1974, the company fixed a formal quota of 250 Metric Tons per month the company did not supply to the fullest extent at any time. It is stated that the petitioner has been

requesting from time to time for larger supplies of coal and has also been depositing moneys; the 1st respondent-company was supplying lesser quantities on the ground of non-availability. He invited our attention to a few instances of deposits of amounts made for larger supplies of coal and the 1st respondent-company supplying smaller quantities instead. Sri Sarathy, therefore, contends that, having rejected the plea for larger supplies of coal, there was no justification for the 1st respondent-company relying on the previous off-take figures because, these off-take figures representing the quantities of coal supplied by the company to suit its own convenience cannot indicate the real consumption of coal. Sri Sarathy points out that, because of non-supply of coal by the 1st respondent-company, the petitioner has been purchasing coal in the open market to supplement its stocks and meet its business commitments. In these circumstances, Sri Sarathy urged that fixation of quota on the basis of previous off-take figures resulted in serious hardship to the petitioner.

7. Sri Ramamohana Rao, counsel for the 1st respondent-company, refutes these statements. He points out to the averments in the writ petition that, by and large, the supplies were regular till December, 1979. If the supplies were regular, as was admitted by the petitioner, the only reason for the steep fall in the quantity of stocks of coal lifted prior to December, 1979 was the inability of the petitioner to fully avail the quota allowed. For the reasons already stated, we are not in a position to enter into a detailed examination of the above issues. We do not readily have any material with reference to which it would be possible for us to accept Sri Sarathy's contentions straightway or reject his submissions made by Sri Ramamohana Rao.

8. Sri Sarathy draws attention to the averments in the writ petition and also to the earlier correspondence wherein allegations were made that the company was supplying larger quantities of coal to a host of dealers etc., Sri Sarathy invited attention to paragraph 7 of the affidavit filed in support of the writ petition wherein names of 45 consumers were furnished and the allegation was that most of these parties to whom coal was being supplied by the 1st respondent-company were non-existent and fictitious. Sri Sarathy also points out to the fact that these allegations are not specifically denied in the counter-affidavit filed by the 1st respondent-company. According to Sri Sarathy, this would clearly indicate that the 1st respondent-company is diverting its coal to questionable channels disregarding the just and legitimate claims of consumers genuinely wanting larger supplies. Sri Ramamohana Rao very fairly concedes that these allegations were not specifically denied in the counter-affidavit, but refers to the general denial in paragraph 1 of the counter-affidavit. Even so, Sri Ramamohana Rao urges that, in a vast organisation supplying coal to several tons of thousands of consumers spread all over the country, a few instances of alleged irregular supplies cannot have the effect of rendering invalid the policy and principles uniformly followed and applied by the company to all its consumers in determining the quotas of supply of coal. There are bound to be some acts of omission and commission in the implementation of the policy laid down and Sri

Ramamohana Rao urges that such trivial irregularities deserve to be overlooked by this Court. Sri Ramamohana Rao placed before us the statement containing the units to which coal allotment was stopped in support of his plea that, whenever it was found that supply of coal to any particular units should be stopped, the company did not spare any effort to stop the supplies forthwith.

9. We are inclined to accept the submissions of Sri Ramamohana Rao notwithstanding the seriousness of the allegations made by the petitioner about the supplies by the 1st respondent-company of coal to fictitious and non-existent persons. Based on a few instances of such irregular supplies it is not possible to hold that the policy and principles adopted by the 1st respondent-company in the matter of fixing the quotas of supply of coal to its consumers falling under different categories are faulty and are disciples followed by the company for the purpose of determining the quotas of supply adverted to above, we are unable to come to the conclusion that, in reducing the quota of supply firstly to 50 Metric Tons and later to 70 Metric Tons per month, the company discriminated the petitioner against other consumers. It might be that the principle of previous monthly off-take worked hardship in the petitioner's case; but that is no ground to hold that the principle itself is erroneous and violative of Art. 14 of the Constitution.

9-A. Having considered at length the correspondence prior to the filing of the writ petition, the averments in the writ petition making serious allegations against the company and also the counter-affidavit filed by the first respondent-company, we are left with a feeling that the 1st respondent-company took the matter light-heartedly. We find that the counter-affidavit has been filed by some "Senior Sales Officer" of the 1st respondent-company. Admittedly, he does not come in the hierarchy of the top executives of the company bearing responsibility to explain to the satisfaction of this Court that the allegations made in the writ petition were frivolous. The seriousness of the allegations of supplies by the 1st respondent-company of coal to bogus, fictitious and non-existent persons and the furnishing of enough details in this direction should have received more serious attention at the hands of the 1st respondent-company. A senior officer on the management side should have looked into the allegations with all seriousness that they deserve and a counter-affidavit should have been filed by a more responsible person. We cannot help observing that the 1st respondent-company has taken an indifferent attitude brushing away the allegations contained in the writ petition as of no consequence. Had it not been for the fact that the investigation into these allegations fell outside the scope of jurisdiction of this Court under Article 226 of the Constitution, we would have taken a more serious view of the matter and perhaps examined more critically the question of exercising jurisdiction u/s 237 of the Companies Act for a thorough probe and investigation into the affairs of the company by the Central Government. We leave the matter at that.

10. Before parting with this matter, we would also like to observe that there

appears to be some justification for the grievance of the writ petitioner that its representations for enhanced supply of coal did not receive adequate consideration and were disposed of in a routine manner. In the first instance, the 1st respondent-company itself had directed the supply of 250 Metric Tons per month to the petitioner in August, 1974. There is enough evidence on record to show that the supplies are not too regular and the petitioner has been clamouring for more supplies. Several sources recommended supply of round coal to the petitioner to the extent of 300 Metric Tons including the Direction of Industries and Commerce, who is a responsible officer and on whose recommendation the 1st respondent-company generally acts. There is also material to show that the petitioner has been making deposits asking for larger supplies; but on a number of occasions, the company supplied reduced quantities. This leads to a justifiable grievance that the previous off-take figures worked hardship in the petitioner's case. We would commend for consideration of all the above aspects at a more senior level in the administration of the 1st respondent-company and to take an appropriate decision on a dispassionate and objective view of the facts and other representations made by the petitioner. The 1st respondent-company may also consider the request of the petitioner for supplying the coal at Mandamarri Division and collecting the price at that end instead of at Hyderabad if that procedure does not entail inconvenience to the 1st respondent-company.

Subject to our above observations, we dismiss both the writ petitions. In the circumstances, we direct the parties to bear their own costs.

11. Petitions dismissed.