

(2018) 06 JH CK 0012

In the Jharkhand High Court

Case No : Writ Petition (C) No.3437 of 2006

M/s Arunodaya Carriers Pvt. Ltd

APPELLANT

Vs

Bharat Coking Coal Limited

RESPONDENT

Date of Decision : 13-06-2018

Acts Referred:

Citation : (2018) 06 JH CK 0012

Hon'ble Judges : ANUBHA RAWAT CHOUDHARY, J

Bench : Single Bench

Advocate : A.K. Sahani, Anoop Kumar Mehta

Final Decision : Disposed Off

Judgement

1. Heard Mr. A.K. Sahani, counsel appearing for the petitioner.Â
2. Heard Mr. Anoop Kumar Mehta, counsel appearing for the respondent- Bharat Coking Coal Limited.
3. This writ petition has been filed for the following reliefs: â??For grant of an appropriate writ in the nature of Certiorari or an order or direction for quashing the letter no. CMD/ES/F-50/04/251 dated 29-4-2004 (Annexure-11) whereby and whereunder the Chairman-cum-Managing Director of the respondent no.1 purported to have disposed of the representation of the petitioner in terms of order passed by this Honâ??ble Court in W.P.(C) No. 354/04 declining the claims of the petitioner and for an appropriate writ in the nature of Mandamus commanding upon the respondents to pay forthwith the claimed amount to the petitioner with interest and within a specified period and for any other appropriate writ or order or direction as this Honâ??ble Court may deem fit and proper.â??
4. Counsel for the petitioner submits that earlier the petitioner moved this Court

in W.P.(C) No. 354 of 2004 which was disposed of vide order dated 30.01.2004 and following order was passed:Â

Â Â Â â?? Heard the parties.

The matter relates to deductions from the Petitionerâ??s bills said to have been made illegally. Plainly therefore, this is a case which directly

concerns a monetary claim in relation to a contractorâ??s billed amounts. To that extent therefore, this Court is not inclined to pass any orders in

favour of the Petitioner, save and except to relegate the Petitioner either to the status of a representationist before the authority concerned or to the

status of a Plaintiff before a competent Court of Civil jurisdiction. If, however, the Petitioner opts for the status of a representationist before the

authorities concerned and if he reasserts the representations filed earlier and which are contained in Annexures 6, 8 and 9 to the Writ Petition, the

authorities should pass a reasoned order as expeditiously as possible. Let it be recorded that this Court has given no findings in relation to the merits of

the lis involved and leaves the parties to take all points. This Writ Petition is therefore, dismissed.â??Â

5. Counsel for the petitioner submits that there was a specific order that the representations which were filed earlier by the petitioner as contained in

Annexures 6, 8 and 9 to the said writ petition were to be considered by the authorities and a reasoned order was to be passed. By referring to the

impugned order as contained in Annexure-11 to the writ petition, the counsel for the petitioner submits that the order passed by this Court has not been

complied with in letter and spirit in as much as the impugned order is not a reasoned order and the points which have been raised by the petitioner in

his representations as contained in Annexure-6, Annexure-8, Annexure-9 of the earlier writ petition have not been taken into consideration by the

authority while passing the impugned order in as much as the points raised therein have not been considered and no reasoned order has been passed in

connection with such points.Â 6. Counsel for the petitioner submits that in this view of the matter, the impugned order is fit to be set-aside being a

nonspeaking order and also on account of the fact that the order dated 30.01.2004 passed in aforesaid earlier writ petition being W.P.(C) No. 354 of

2004 has not been followed in its letter and spirit.

7. Counsel for the petitioner further submits that the Annexures 6, 8 and 9 of the

previous writ petition are Annexures 6, 7 and 8 of the instant writ

petition and apparently the grievances raised in these representations have not been considered by the authority while passing the impugned order as

contained in Annexure-11 to this writ petition.

8. Counsel for the respondents, on the other hand, submits that from the perusal of the impugned order it appears that while disposing of the

representation of the petitioner, the Chairman-cum-Managing Director of the Bharat Coking Coal Limited has considered that the deduction has been

affected as per the provisions of work order containing terms and conditions as specified on the basis of decision of the functional director and board

and he submits that there was no merit in the representations filed by the petitioner and the impugned order has been rightly passed.Â

9. After hearing the counsel for the parties and after going through the impugned order dated 29.04.2004 passed by the Chairman-cum-Managing

Director of the Bharat Coking Coal Limited as contained in Annexure-11 to this writ petition, this Court finds that the only reason which has been

assigned by the authority to reject the representations filed by the petitioner is as follows:

â??The deduction has been affected as per the provisions of the work order containing terms and conditions as specified on the basis of the decision

of the functional director and board.â??Â

Â The next paragraph of the impugned order deals with the matter of payment of admitted amount.Â

Â This Court finds that many points were raised by the petitioner in his representations but those points have not been considered by the Chairman-

cum-Managing Director of the Bharat Coking Coal Limited while passing the impugned order and accordingly, this Court finds that the order dated

30.01.2004 passed in W.P.(C) No. 354 of 2004 has not been complied with in its letter and spirit.Â

10. This Court further finds that there was a specific direction by this Court in order dated 30.01.2004 in W.P.(C) No. 354 of 2004 directing the

authority to pass a reasoned order which has not been done by the impugned order as contained in Annexure-11 to this writ petition.Â

11. Accordingly, this Court is of the view that the impugned order, as contained in Annexure-11 to this writ petition is a piece of complete non-

application of mind and the same is fit to be set-aside and the matter is to be remanded back to the Chairman-cum-Managing Director of the Bharat

Coking Coal Limited for fresh consideration of the representations which have been referred to in order dated 30.01.2004 passed in W.P.(C) No. 354

of 2004.

12. In the aforesaid view of the matter, the impugned order as contained in letter no. CMD/ES/F-50/04/251 dated 29.04.2004 (Annexure-

11) passed by Chairman-cumManaging Director of the Bharat Coking Coal Limited is hereby set-aside and the petitioner is directed to appear before

the Chairman-cum-Managing Director, Bharat Coking Coal

Limited on 16.07.2018 alongwith a copy of this order as well as earlier filed representations as mentioned in order dated 30.01.2004

passed in W.P.(C) No. 354 of 2004 as well as necessary documents. Upon appearance of the petitioner, the Chairman-cum-Managing Director is

directed to fix a date of hearing and after hearing the petitioner, he is directed to pass a reasoned order in terms of the order dated 30.01.2004 passed

in W.P.(C) No. 354 of 2004 considering the grievances raised by the petitioner in the various representations mentioned in order dated 30.01.2004

within a period of one month thereafter.

13. If upon consideration of the representations of the petitioner, the Chairman-cum-Managing Director, Bharat Coking Coal Limited finds that any

amount is payable to the petitioner, the same shall be paid to the petitioner within a period of one month thereafter.

14. With the aforesaid observations and directions, this writ petition is disposed of.

15. It is made clear that the Court has not gone into the merits of the claim of the parties and the order has been passed only on account of the fact

that this Court found that the impugned order is not a reasoned order and the directions contained in order dated 30.01.2004 passed in W.P.(C) No.

354 of 2004 has not been followed in letter and spirit.