(2003) 01 JH CK 0062

In the Jharkhand High Court

Case No : Writ Petition (C) No. 2946 of 2001

Pradeep Cement Pvt. Ltd. APPELLANT

Vs

Jharkhand State Electricity Board and Others RESPONDENT

Date of Decision : 27-01-2003

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2003) 4 JCR 378

Hon'ble Judges : Vikramaditya Prasad, J

Bench : Single Bench

Advocate : M.S. Mittal, for the Appellant; V.P. Singh and Mukesh Kumar, for the Respondent

Judgement

Vikramaditya Prasad, J.—The petitioner claims to be covered by the Industrial Policy of the year, 1995, Annexure 4, and pursuant thereto, claims exemptions in the bills raised by the respondent and also claims that the AMG charges cannot be raised before the expiry of 12 months from the date of production.

2. The case of the petitioner is that its unit was sanctioned in January, 2000, but actually it started production in December, 2000. The petitioner claims its coverage under the Industrial Policy aforesaid, specifically the second proviso of Clause ka. The learned counsel appearing for the petitioner, placing a letter No. 724 dated 20.7.2001, in course of argument, submitted that this letter has been issued by the General Manager, District Industries Centre, Giridih, wherein it has been mentioned that the production of the aforesaid concern, i.e. M/s. Pradeep Cement Pvt. Ltd., Bhorandia, Giridih, has commenced from 18.1.2001.

3. The petitioner has filed this writ for quashing the bills Annexure 3 and also for a writ of mandamus upon the respondent to give it exemption for the period of five years under Annexure 4.

4. The learned senior counsel appearing for the respondents, to the contrary, argued that first of all, the writ of mandamus could lie only when the petitioner

has made representation before the concerned authorities and the authorities had failed to exercise their jurisdiction to grant relief. In the instant case, the petitioner did not make any representation before the respondents and therefore, the writ of mandamus, according to the learned senior counsel appearing for the respondents, does not lie. With regard to issuance of writ certiorari for quashing the bills, it was argued by the learned senior counsel appearing for the respondents that had the petitioner filed the representation and if the representation could not have been allowed and thereafter the bills would have been issued, then in that circumstances, only the writ of certiorari could be allowed. I agree with the arguments advanced by the learned senior counsel appearing for the respondents.

5. In the aforesaid circumstances, the petitioner is directed to file a representation before the concerned General Manager-cum-Chief Engineer within a period of 15 days from the date of this order and the General Manager will pass a reasoned order on the following three points within a period of one month from the date of filing of the representation after giving an opportunity of being heard to the petitioner :

Whether the petitioner is entitled to exemptions under the Proviso of Clause ka of the New Industrial Policy, 1995, Annexure 4, with reference to the date of production as given in the letter (supra)?

(ii) Whether the bills could have been raised without giving exemptions? and

(iii) Whether the bills could have been raised before the expiry of 12 months from the date of production?

Till the order is passed by the General Manager concerned, no coercive steps shall be taken against the petitioner for payment of the impugned bills.

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

