
(1993) 09 PAT CK 0013
In the Patna High Court
Case No : C.W.J.C. No. 1782 of 1993 (R)

R.D. Enterprises (Pvt) Ltd.

APPELLANT

Vs

Coal India Ltd. and Others

RESPONDENT

Date of Decision : 04-09-1993

Acts Referred:

Citation : (1994) 42 BLJR 533 : (1994) 1 PLJR 499

Hon'ble Judges : S.B. Sinha, J;N. Roy, J

Bench : Division Bench

Judgement

S.B. Sinha, J.—The prayer of the petitioner in this application is for a direction upon the respondents to supply coal (Grade E and F), as also for quashing a notice dated 31-5-1993 (Annexure-8) issued by the respondent No. 4 in terms whereof the briquetting units, inter alia, have been directed to deposit coal value for Giddi middlings, despite the fact that although the petitioner's industries on coal-based ones.

2. Petitioner No. 1 allegedly manufactures smokeless coal briquettes and petitioner No. 2 manufactures only coal briquettes. Applications were filed by the petitioners for allotment of coal under the Linkage Scheme from different collieries. The petitioners have contended that coal has been de-controlled by the State of Bihar. However, according to the petitioners, coal was to be supplied on linkage quantity basis for which representations were made by the petitioners before the respondent No. 2. According to the petitioners, respondent No. 4 by a letter dated 24-3-1993 made a suggestion that Grade E/F coal is available with the respondents, but despite the same, coal is not being supplied to them. However, the petitioners have been offered middlings.

3. In this case, a counter-affidavit has been filed on behalf of the respondents wherein, inter alia, it has been contended that middling, which has been offered to be supplied to the petitioners are also Grade "F" coal. It has been stated that the Additional Secretary, Ministry of Coal by a telegraphic message dated 22-7-1992 advised that all briquetting units should be given grade E/F coal.

Hence, briquetting units are allotted middlings from Giddi washery which is equivalent to Grade "F" coal. The respondents, however, have denied that there has been any stoppage of the supply of coal, but it is stated that only the source of supply has been changed. It has been further contended that a policy decision was arrived at for the supply of middling (Grade F) from Giddi Washery to all briquetting units, A reply/rejoinder to the said counter-affidavit has also been filed on behalf of the petitioners.

4. Mr. P.K. Sinha, learned Counsel, appearing on behalf of the petitioners has submitted that so far as the nature of requirement of the petitioner is concerned, the same would appear from a letter dated 10/18-6-1987, which is contained in Annexure-2 to the writ application. From a perusal of Annexure-2, it appears that requirement of the petitioners is coal of Grade D/E/F or equivalent, the size being slack coal. According to the learned Counsel for the petitioners, the requirement of the petitioners cannot be met if they are supplied grade E\F middlings.

5. Mr. M.M. Banerjee, learned Counsel appearing on behalf of the respondents, on the other hand, produced before us booklets showing the gradation of coal for the years 1992-93 and 1993-94 published by the Coal India Limited and submitted that the coal grades contained in these booklets for the years 1992-93 and 1993-94 have been published in terms of Clause 3 of the Colliery Control Order, as amended by the G.S.R. No. 545, dated 14-4-1979 and based on Systematic Sampling and Scientific Analysis and the same have come into force with effect from 1-4-1993, As noticed hereinbefore, according to the respondents, middlings supplied from Giddi Washery were equivalent to to Grade "F" coal.

6. Mr. Banerjee, learned Counsel for the respondents, has further submitted that the size of coal is wholly immaterial for the purpose of manufacturing briquettes inasmuch as coal/middlings have to be crushed to powder before briquettes can be manufactured.

7. It is not in dispute that technically middling in coal. So far as the matter relating to the manufacturing of briquettes is concerned, the same has been considered by this Court in Bajrangbali Coke Briquetting Industry, etc. etc. Vs. State of Bihar and Others . In this case, it has been held that briquette is no coke within the meaning of the Colliery Control Order, 1945, or the Bihar Trade Articles (Licences Unification) Order, 1984. In that case, difference in manufacturing process of coal and coke has been taken into consideration and it was noticed that the process of carbonization is necessary for "briquetting" and that for purpose, only sintering is required to be done. In paragraph 26 of the said decision, it was observed as follows:

26. From the meaning of "sintering" as defined in Nelson's Dictionary of Mining and as noticed hereinbefore, it is evident that process of sintering involves "providing the heat to produce semi-fused lumps of ore". By the process of sintering, no new object is manufactured, but merely semi-fused lumps of ore or

coal dust are formed.

8. However, in this case, the petitioners in paragraph 20 of the writ petition have categorically stated as follows:

20. From that it is stated that the crushers machines and the other machines for manufacturing briquettes will be unuseful for producing briquettes out of middlings. Middlings are not appropriate item of coal for briquettes. The respondent No. 1 allotted linkage for supply of Group of D/E/F coal to the briquetting units.

9. The aforesaid statements have been controverted by the respondents in their counter-affidavit and this aspect of the matter, in our opinion, shall be inquired into by the Coal Controller in terms of the provisions of the Colliery Control Order, 1945.

10. The Central Government has issued a notification dated 4-5-1992 in terms of Clause 3 of the Colliery Control Order whereby and whereunder gradation of coal has been fixed. Gradation so far as coal is concerned whether the service is coking, non-coking or semi-coking, etc., the same refers "coal" produced from coal mines. In terms of Clause 3-A of the Colliery Control Order, the Coal Controller is empowered to lay down the standard and method of sampling and analysis of coal. In this view of the matter, in our opinion, as middling has been declared to be "coal", by reason of the decision of the Supreme Court and as the Coal Controller is the final authority with regard to supply of coal to different industries, the grievances of the petitioner, in our opinion should be inquired into by him or by an officer so authorised in this behalf by him.

11. The petitioners may, therefore, file a representation before the Coal Controller for the purpose of causing an inquiry to be made for the purpose of arriving at a decision as to whether the petitioner's purpose would be served by supply of middlings from Giddi washery or not, in view of the nature of the petitioner, plant.

12. We hope and treat that keeping in view the fact that the production from the petitioners, plant have been stopped, their representation shall be disposed of at any early date and preferably within period of one month, from the date of a copy thereof. The Coal Controller shall cause an inquiry to be made in this regard and pass an appropriate order upon taking into consideration of said report.

13. With the aforementioned directions/observations this application is disposed of, but without any order as to costs.

Narayan Roy, J.

14. I agree.