

(2001) 06 JH CK 0034

In the Jharkhand High Court

Case No : CWJC No's. 1622 and 1629 of 2001

Royal Road Products, Baba Bhut Nath Briquette Industries

APPELLANT

Vs

Bharat Coking Coal Ltd. and Others

RESPONDENT

Date of Decision : 04-06-2001

Acts Referred:

Citation : (2001) 06 JH CK 0034

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Ajit Kumar and M.K. Sinha, for the Appellant; A.K. Mehta and M.L.K. Chitra, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—Both the writ petitions have been preferred by the petitioners against Wireless message dated 17th July, 2000 and 22nd July, 2000, whereby and whereunder, the Deputy Chief Sales Manager (RS). B.C.C.L. Dhanbad giving reference to a letter dated 3rd July. 2000 and 12th July, 2000 respectively, directed to suspend dispatch of the coal to certain consignees, including petitioners with immediate effect.

2. Admittedly, the petitioners have been granted coal linkage by the Coal India Ltd. (CIL). In terms with the said coal linkage, they are entitled to lift coal from respondent M/s. B.C.C.L.

3. As no reason has been assigned in the wireless message dated 17th July, 2000 and 22nd July, 2000 and no notice was given to petitioners prior to the issuance of wireless message, the respondents were asked to file counter affidavit.

4. According to the respondents, if any Industrial Unit is operational, it would require coal for self consumption. On the contrary, if any unit is not working, coal is not required by such unit. The coal is released to linked consumers for self consumption and for its proper utilisation and there is no machinery of B.C.C.L. to check the consumption and utilisation of coal on day-to-day or regular basis.

For the said purpose, the Company is dependent upon the Industries Department of the State/General Manager, District Industries Centre.

5. At paragraph-16 of the counter affidavit, the reason for suspension of coal has been given that the petitioner's Units had been found to be inoperative by the General Manager, D.I.C. Muzaffarpur.

6. Similar case fell for consideration before this Court in M/s. Avinash Lime Works and Anr. v. C.C.L. and Ors. C.W.J.C. No. 647/2001. The said case" along with another was disposed of on 10th April, 2001. A Bench of this Court, taking into consideration the decision of this Court in the case of Maa Chhina Mastika Industries, C.W.J.C. No. 2787 of 2000 [see 2001 (1) Jhr CR 63 (Jhr)] and analogous cases, disposed of on 17th January, 2001 and the decision in Chandan Glass and Syndicate works C.W.J.C. No. 284 of 2001 and analogous cases, disposed of on 26th January, 2001, while held that the appropriate authority has jurisdiction to suspend coal after notice and hearing, if one or other Unit is found to be not functioning. It further held that in case one Unit is found to have been abandoned or closed, the competent authority may cancel the coal linkage, after notice and hearing the parties.

7. In the said case, taking into consideration the fact that the suspension order was issued without notice and hearing the parties, similar order of suspension was set aside.

8. Admittedly, the impugned orders were Issued vide wireless message dated 17th July, 2000 and 22nd July, 2000 and supply of coal was suspended without notice and hearing the petitioners. In the aforesaid background, both the impugned orders dated 17th July, 2000 and 22nd July, 2000 are set aside so far as it relate to the petitioners.

9. Liberty is, however, given to the authorities of M/s. B.C.C.L., if they so choose, to bring the matter to the notice of the competent authority/C.I.L., if anything is found to be adverse against the petitioners for cancellation of linkage. In such case, the C.I.L. authorities may pass an appropriate order after notice and hearing the petitioners.

10. In the meantime, if the petitioners give undertaking that it will utilised the coal for proper functioning and apply for release of coal in terms with coal linkage, the B.C.C.L. authorities will release coal on verification of such undertaking and fulfilment of other formalities. After release of such coal, if it is found that the coal so released has not been properly utilised by the petitioners, the B.C.C.L. authority may suspend temporarily the supply of coal after notice to the petitioner and will report the matter to the C.I.L. to take appropriate steps for cancellation of coal linkage.

11. It is made clear that the B.C.C.L. authority cannot withhold/suspend of coal on the basis of any direction of the District Industries Centre/Industries Department of the State, without notice and hearing the petitioners.

12. The writ petition stand disposed of with the aforesaid observations and directions.

13. Petitions disposed of