
(2018) 09 CHH CK 0434
In the Chhattisgarh High Court
Case No : Writ Appeal No. 656 Of 2018

South Eastern Coalfields Limited

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 27-09-2018

Acts Referred:

Constitution Of India, 1950 — Article 285

Citation : (2018) 09 CHH CK 0434

Hon'ble Judges : Ajay Kumar Tripathi, CJ; Parth Prateem Sahu, J

Bench : Division Bench

Advocate : H. B. Agrawal, Deepali Dubey, Prafull N. Bharat

Final Decision : Dismissed

Judgement

Ajay Kumar Tripathi, CJ

1. I.A. No. 01 of 2018 is an application for condonation of delay of 49 days in filing the appeal. It is allowed for the reasons indicated in the application and delay is condoned.

2. Having heard the learned Senior Counsel for the Appellant and learned Additional Advocate General for the Respondent-State, we are not satisfied that the learned Single Judge has committed any error of law in his impugned order dated 23.04.2018 against which present appeal has been

preferred. The issue was a demand having been raised upon the Appellant-Company by the Municipal Authorities levying property tax. Question was

raised before the learned Single Judge that the State Government or the Municipal Authorities could not include property belonging to Government of

India used for mining purposes in the Nagar Panchayat of Bishrampur. If that be so, then no demand for recovery of property tax could also be made.

3. Such submission was considered by the learned Single Judge keeping in mind the settled principle of law on such question which already stand

answered by the Hon'ble Supreme Court. The earliest of decision is the case of Western Coalfields Limited v. Municipal Council, Birshingpur Pali

and another reported in (1999) 3 SCC 290 which held that a Government Company does not beget the protection or the exemption under the

constitutional provision i.e. Article 285 of the Constitution of India since the Company cannot be equated with Union of India.

4. The other aspect which has been answered by the learned Single Judge is whether the State Government had the necessary powers to notify a

Nagar Panchayat or a Corporation. Here also drawing support from the decision of the Hon'ble Supreme Court in the case of Sundarjas Kanyalal

Bhathija and Others v. The Collector, Thane, Maharashtra reported in AIR 1990 SC 261 where it has been held that the power of the Government in

establishing a Corporation or a Panchayat is neither an executive nor administrative power, but is a legislative process.

5. In view of the issues no longer being res integra and the facts being squarely covered by the principles taken note of by the learned Single Judge laid

down by the highest Court of the land, we are not satisfied that any case is made for the interference in the impugned order.

6. The appeal has no merit, it is dismissed. However, the Appellant-Company is now granted four weeks time to respond to the notice by the Nagar

Panchayat.