(2001) 07 JH CK 0040

In the Jharkhand High Court

Case No : MJC No''s. 437 and 438 of 2001

Steel Authority of India Ltd. APPELLANT

Vs

State of Jharkhand RESPONDENT

Date of Decision : 13-07-2001

Acts Referred:
Bihar Sales Tax Rules, 1983 — Rule 33, 33(3)

Citation : (2001) 07 JH CK 0040

Hon'ble Judges : Vinod Kumar Gupta, C.J;Gurusharan Sharma, J

Bench : Division Bench

Advocate : S.B. Gadodia and Rajiv Ranjan, for the Appellant; Binod Poddar, AAG, for the Respondent

Judgement

1. The Commercial Taxes Tribunal undoubtedly has been constituted and is functional also. We have been informed at the Bar that roughly about two thousand cases are pending before the Tribunal.

2. We have also been told that recently disputes/controversies appear to have erupted over continuance of one of the members of the Tribunal, presumably related to his supposed superannuation, based on his date of birth. The fact remains that the said member is not attending to his duty as at present.

3. We have also been informed that there is acute shortage of stenographers and other ministerial and supporting staff, as also supporting infrastructure like typewriters, photocopiers and such like other items.

4. When the State Government fulfilled its statutory obligation of constituting the Tribunal, fulfillment of such obligation ought to have been accompanied with provision of necessary infrastructure. In a Tribunal where more than two thousand cases are pending. State Government is under an obligation to consider how to equip the Tribunal with infrastructure so as to ensure that cases are heard and disposed of with promptitude. In any judicial or quasi-judicial forum, stenographers constitute the back bone of the infrastructure, coupled with

typewriters and such either facilities. If there is a Tribunal, but there'' are no stenographers, surely the Tribunal cannot be considered to be functional and if there is Tribunal and there is just one odd stenographer, it cannot be considered to be fully functional.

5. In Sub-rule (3) of Rule 33 of the Bihar Sales fax Rules 1983, there is provision regarding setting up of one or more additional Benches of the Tribunal at such place or places with respect to such jurisdiction or area, as may be specified in the Notification setting up such additional Benches of the Tribunal. Pendency of over two thousand cases in he Tribunal, according to us, calls for immediate consideration and initiation of action by the State Government for setting up of additional Benches in such areas and in respect of such Jurisdiction, as may be crying for immediate attention. If no such Benches are set up in immediate future and if the Tribunal, as presently constituted, functions in a lame duck manner, the arrears of two thousand cases may take a couple of decades to be wiped out.

Based on the aforesaid observations, therefore, we issue the following directions ;--

(i) The State Government in consultation with the Chairman of the Tribunal shall immediately consider and examine the desirability, feasibility, viability and requirement to constitute additional Benches of Tribunal in terms of Sub-rule (3) of Rule 33 (supra):

(ii) The State Government shall ensure that within four weeks from today the Tribunal, as presently constituted, is provided with all infrastructure facilities, such as a bare minimum number of stenographers, as might be agreed upon between the Chairman and then State Government, typewriters and other machineries, such as photocopier etc;

(iii) If indeed a vacancy has been caused with respect to the third member of the Tribunal, the State Government shall take immediate step to fill up the same. Meanwhile the Chairman of the tribunal shall ensure that in accordance with Sub-rule (3) of the Rule 33. the tribunal functions appropriately in Benches of one or two, as the requirement of cases demand.

We have no doubt in our mind that the occurrence of the vacancy of a member does not render the tribunal non-functional.

In so far as the particular case of the petitioner before us is concerned, we direct the tribunal to hear and conclude the said Lease within two months from today and pass appropriate consequential orders.

These applications are, accordingly, disposed of.

6. Disposed of accordingly.

