

(2014) 09 JH CK 0015
In the Jharkhand High Court
Case No : W.P.(C) No. 5880 of 2012

Sushil and Company

APPELLANT

Vs

Bharat Coking Coal Limited and Others

RESPONDENT

Date of Decision : 02-09-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 21
Criminal Procedure Code, 1973 (CrPC) — Section 170

Citation : (2014) 1 JLJR(Jhar) 7 : (2015) 1 JLJR 7

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : Abhay Kumar Singh, Rupesh Singh and A. Pradhan, Advocates for the Appellant; Anoop Kumar Mehta and Amit Kumar Sinha, Advocates for the Respondent

Judgement

S. Chandrashekhar, J.—Aggrieved by order dated 3.7.2012 whereby the work awarded to the petitioner on 9.6.2012 was suspended, order dated 17.7.2012 whereby the registration of the petitioner to work as a Transporter was suspended and order dated 26.7.2012 whereby the petitioner has been blacklisted by the respondent-BCCL, the petitioner-Company has approached this Court by filing the present writ petition. Mr. Abhay Kumar Singh, the learned Senior Counsel assisted by the counsel Mr. Rupesh Singh, appearing for the petitioner assailed order dated 26.7.2012 on the ground that without affording sufficient opportunity to the petitioner to defend himself a blanket order of blacklisting has been passed which has caused serious prejudice to the petitioner besides, the order dated 26.7.2012 being passed in complete violation of the constitutional rights guaranteed under Articles 14 and 21 of the Constitution of India. Challenging orders dated 3.7.2012 and 17.7.2012, it is submitted that these orders have been passed only on the ground that a First Information Report has been lodged in which three tippers of the petitioner-Company were allegedly found involved in illegal transportation of coal. It is submitted that more than two years has elapsed and if the allegations levelled in the First Information

Report has any substance, the C.I.S.F. personnel also should have been made accused in the case. No report as contemplated, under Section 170 Cr.P.C. has been filed. It is submitted that since the order of suspension of the work order as well as the order of suspension of the registration of the petitioner to work as Transporter have been passed due to registration of a criminal case, in absence of a charge-sheet submitted against the petitioner, those orders should have been revoked by the respondent-BCCL itself. It is further submitted that a blanket order of blacklisting without specifying any time period could not have been passed by the respondent-BCCL. In the present proceeding, the petitioner has taken a specific plea that after the working hours with the BCCL, i.e., after 17:00 hours, the petitioner-Company had been carrying transportation work of individual entrepreneurs and in support of such a plea the petitioner-Company would submit necessary evidences before the respondent-BCCL. Several documents indicating lifting of coal from Gazlitand Colliery, its inspection by the C.I.S.F. personnel, its weighment and consequent delivery at Moonidih Colliery have been produced by the petitioner in the present proceeding.

2. Mr. Anoop Kumar Mehta, the learned counsel assisted by the counsel Mr. Amit Kumar Sinha, appearing for the respondent- BCCL has submitted that since a criminal case has been lodged being Govindpur P.S. Case No. 276 of 2012 dated 1.7.2012, in which the complicity of the tippers belonging to the petitioner-Company has been found, the impugned orders were passed. It is further submitted that the petitioner-Company does not have any statutory right of hearing prior to order of suspension or blacklisting is passed.

3. Considering the facts and circumstances of the case and the stand taken by the petitioner-Company as well as the respondent-BCCL, I am of the opinion that since adequate opportunity to defend it self was not afforded to the petitioner-Company, atleast at this stage a hearing may be granted to it. I am of the considered opinion that it would serve the ends of justice if the matter is remitted back to the respondent No. 2-the Chief General Manager (CMC), Bharat Coking Coal Limited, Dhanbad for taking a decision in the matter.

4. In view of the materials brought oh record and the submissions made at bar, the petitioner-Company is granted an opportunity to produce necessary evidence in support of its case before respondent No. 2 and the respondent No. 2 after granting opportunity of hearing to the petitioner-Company would take a decision in the matter within a period of four weeks from the date the petitioner-Company appears before the respondent No. 2 and submits necessary documents in support of its case.

5. The learned Senior Counsel referring to prayer made at paragraph No. (iv) of the writ petition submitted that in the counter-affidavit the respondent-BCCL has admitted that in so far as, the admitted dues of the petitioner is concerned, the same is being looked into.

6. The learned counsel for the respondent-BCCL has submitted that the dues, if

any, of the petitioner would be paid in terms of the contract.

7. It is expected that the respondent-BCCL would make payment of dues to the petitioner-Company, if any, in accordance with the terms of the contract, as expeditiously as possible. The writ petition is disposed of in the aforesaid terms.