
(2002) 08 JH CK 0035

In the Jharkhand High Court

Case No : Writ Petition (C) No. 4493 of 2002

Sushila Chemicals Pvt. Ltd.

APPELLANT

Vs

B.C.C.L. and Others

RESPONDENT

Date of Decision : 19-08-2002

Acts Referred:

Citation : (2002) 08 JH CK 0035

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

Bench : Single Bench

Advocate : R.S. Majumdar, for the Appellant; M.M. Banerjee, for the Respondent

Judgement

S.J. Mukhopadhaya, J.—This application has been preferred by the petitioner against the wireless message bearing No. BCCL : S&M RS F-41 423 dated 30th July, 2002 issued by the Chief General Manager (S&M), BCCL, Dhanbad, whereby and whereunder, supply of coal in favour of petitioner has been suspended temporarily on the direction of District Industries Centre, government of Bihar, Patna. The petitioner has further prayed for direction on the Respondents to supply coal as per linkage.

2. The question of supply of coal to a linked consumer of non-core sector fell for consideration before a Bench of this Court in the case of Maya Fuel Pvt. Ltd. v. B.C.C.L. Ltd., in WP (C) no. 4790 of 2001. This Court vide its judgment dated 14th August, 2002, held that the State authorities have no more jurisdiction to determine the question of supply of coal or its suspension. The assessment for determination of linkage quantity i.e. Maximum Permissible Quantity (MPQ) cannot be made by the State authorities, such as, District Industries Centre, S.I.S.I. and to be made by the Coal Companies as the supply of coal is depended on various factors such as requirement of coal of a linked consumer, availability of coal with the Coal Companies, etc.

3. The Court further held that the Coal Companies can revise the linkage quantity/ MPQ, in cases, such as less availability of coal than the demand, lifting

of lesser quantity of coal by linked consumer, etc.

4. In view of circumstances as the District Industries Centre, Bihar has no jurisdiction to determine the question of supply of coal in favour of one or other consumer, the Wireless message dated 30th July, 2002 issued on such direction is set aside.

5. The case is remitted to the competent authority of M/s. BCCL for determination of issue relating to supply of coal in favour of petitioner within one month from the date of receipt/production of a copy of this order.

6. It will be open to the Coal Company to re-determine/revise the coal linkage quantity/MPQ, for good ground, such as non-functioning of the petitioner's unit, etc.

7. In case of favourable decision, the respondents will allow the petitioner to lift coal as per linkage/MPQ or MPQ redetermined.

8. The writ petition stands disposed of with the aforesaid observations and directions.