

(2013) 01 JH CK 0019

In the Jharkhand High Court

Case No : LPA No"s. 274-275, 277, 279-280, 282, 284-286 of 2009

Tata Steel Limited

APPELLANT

Vs

Bihar State Electricity Board now Jharkhand State Electricity
Board and Others

RESPONDENT

Date of Decision : 17-01-2013

Acts Referred:

Citation : (2013) 3 JLJR 600

Hon'ble Judges : Prakash Tatia, C.J.;Jaya Roy, J

Bench : Division Bench

Advocate : B. Poddar, Piyush Poddar, Mrs. A.R. Choudhary and Ms. Darshana Poddar, for the Appellant; Jitendra Singh, Suraj Samdarshi, Rupesh Singh, Amrendra Pradhan, Amit Sinha and Navin Kumar, for the Respondent

Judgement

1. At the request of learned counsel for the appellant, these Letters Patent Appeals, which were initially tagged with writ petitions C.W.J.C. No.

746 of 1992 and C.W.J.C. No. 2574 of 1993, have been listed again in spite of the fact that in C.W.J.C. No. 746 of 1992 and connected writ

petition arguments were heard and judgment was reserved on 14.12.2012. At the request of learned counsel for the appellant and as agreed by

learned counsel for the respondents, these L.P.As. are heard before decision of the said writ petition.

2. Learned counsel for the appellant submitted that the learned Single Judge has not decided any of the issues raised by the writ petitioner and has

disposed of the writ petition even with liberty to the petitioner to move transfer petition before the Hon"ble Supreme Court and it has been

observed by the learned Single Judge that ""the issue being identical, the parties being same and leave having been granted and the Hon"ble

Supreme Court being ceased of the matter, it will be in the interest of justice to await the outcome more so when there are conflicting views of

Division Bench judgments passed by Jharkhand High Court which cannot be distinguished or clarified by a Single Bench". Then the learned Single

Judge observed that in this regard the law is well settled that once leave has been granted the order of the Division Bench merges in it and thus,

judicial discipline requires that this Court should await the outcome of the pending appeals on the same issue between the same parties pending

before the Hon"ble Supreme Court. Then the learned Single Judge granted above permission that the petitioner is at liberty to move transfer

petition to get the present writ petitions tagged with the pending civil appeals preferred by the Tata Iron and Steel Company Ltd. itself for an

authoritative pronouncement which can become a binding precedent for the High Court.

3. The directions referred above are self-contradictory as well as those directions clearly indicate that the learned Single Judge did not choose to

exercise its jurisdiction because of the reason of conflicting decisions of the Division Bench or because of the leave granted by the Hon"ble

Supreme Court in the matter and observed that in view of the grant of leave, the order of the Division Bench merges in it which, on the face of it, is

illegal proposition of law.

4. We are of the considered opinion that if the matter was sub-judice before the Hon"ble Supreme Court, then in that situation, the writ petitions

could not have been dismissed merely on that count of pendency of SLP before the Hon"ble Supreme Court. The observation of the learned

Single Judge that the petitioner will be free to move transfer petition to get the present petitions tagged with pending civil appeals preferred by Tata

Iron and Steel Company Limited and at the same time dismissed the writ petitions, therefore, also the impugned judgment dated 27.4.2009 is liable

to be set aside. Consequentially, the L.P.As. are allowed and the matter is sent back to the learned Single Judge.

5. We are making it clear that we have not observed anything on the merit of the case. These L.P.As. are allowed.