
(1996) 05 SC CK 0013

In the Supreme Court Of India

Case No : Civil Appeal No. 9059 of 1996

Union of India (UOI) and Others

APPELLANT

Vs

Sharma Coal Co.

RESPONDENT

Date of Decision : 10-05-1996

Acts Referred:

Constitution of India, 1950 — Article 19(1)

Citation : (1996) 5 SCALE 199 : (1996) 10 SCC 94 : (1996) 2 SCR 850 Supp

Hon'ble Judges : K. Ramaswamy, J;G. B. Pattanaik, J

Bench : Division Bench

Advocate : C.B. Babu, B. Krishna Prasad and P. Parameswaran, for the Appellant;

Final Decision : Disposed Of

Judgement

K. Ramaswamy and G.B. Pattanaik, JJ.—Leave granted.

2. Though the respondents have been served, none appears either in person or through the counsel. We have heard counsel for the appellant.

3. This appeal arises from the order of the Division Bench of the Guwahati High Court in a batch of writ petitions being Civil Rule No. 1153/89 and batch passed on dated July 30, 1990. The Railway administration had prepared a preferential traffic scheme (PTS), by general Order No. 71 categorising the priority articles for carriage by railways and allotted different priorities which are made in alphabetic Orders A to E. Sponsored coal movement was mentioned in Category C priority and priority E would include non-sponsored coal. Subsequently by proceedings dated March, 1, 1989 the Railways modified its earlier scheme and issued general PTS Order No. 77 with effect from April 1, 1989 under which priorities were re-determined. It would appear that subsequently non-priorities coal item E was deleted from the priority scheme. When the respondents challenged its validity on the anvil of Article 19(1)(g) of the Constitution, the Division Bench of the High Court without disturbing the validity of the order had given direction observing that after all the priorities enumerated in the scheme

are exhausted and if the wagons remains unutilized, the wagons may be kept at the disposal of non-priority articles for carriage. Thus this appeal came to be filed by special leave.

4. It is seen that in Order No. 75 priorities A to E were made which included sponsored coal within The meaning of the order and non-sponsored coal within the meaning of the order and non-sponsored coal provided in priority E for allotment of wagon. With regard to non-priority item E, it subsequently deleted as mentioned in paragraph E of the SLP which reads as "the Order No. 77 relates to PTS for allotment of wagons which came into force from 16.7.56, but non-sponsored coal referred to in priority E of PTS No. 75 was removed". It would thus be seen that non-priority coal came to be removed from the priorities mentioned in Items A to E. Therefore, the High Court obviously was of the intention to direct that if after the wagons allotted for movement to priority articles remained available, the same may be allotted for non-priority articles for carriage. We do not think that there is any impediment in the way of administration to give such allotment, instead of keeping them idle. It would be in commercial interest of the Railway administration.

5. The appeal is accordingly disposed of. No. costs.