

A COAL INDIA LTD. AND ORS.

IMENK SOU AND ORS.

MARCH 3, 2005

B [N. SANTOSH HEGDE, B.P. SINGH AND S.B. SINHA, JJ.]

*Interim Order :*

C *Order of High Court—Stay of—High Court directing personal presence of Secretary, Ministry of coal and Senior Officers of petitioner-Company and to produce relevant documents in Court—Stay of order sought pleading that copies of documents being already on record, originals would be produced on specified date and personal presence of officers be dispensed with—Held, personal presence of named officers stayed—Relevant documents to be produced by any designated officer or through counsel—Directions given for disposal of coal lying in open yard and subject matter of dispute between the parties—High Court would dispose of the writ petition expeditiously.*

D CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 2061 of 2005.

E From the Judgment and Order dated 7.1.2005 of the Gauhati High Court at Itanagar Permanent Bench in W.P.(C) No. 9 (AP) of 2005.

WITH

F S.L.P. (C) Nos. 2060, 2207, 2210 and 2295 of 2005.

Mohan Parasaran and A. Sharan, Additional Solicitor Generals, G.L. Sanghi, Ajit Kumar Sinha, M.P. Jha, Raj Kishore Prasad Singh, Ram Ekbal Roy and Harshvardhan Jha for the Petitioners.

G Harish N. Salve, Dushyant Dave, C.L. Paney, P.K. Jain, Ankur Chandra, Ms. Manik Karanjawala, Rajiv Mehta, B. Aggarwal, Rajiv Malhotra, Parthiv Goswami, Devashish Bharuka, Dr. Sushil Balwadia, Amkur Chawla, Ms. Pragya Singh B., R.N. Karanjawala, Ms. B. Goyal, Rakesh Taneja and K.L. Taneja for the Respondents.

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The following Order of the Court was delivered :

In the above petitions an application has been filed by the Union of India seeking stay of the direction dated 1.3.2005 made by the High Court of Gauhati in Writ Petition © No. 09 of 2005 and others. By the said order the High Court has directed the Secretary to the Government of India, Ministry of Coal, New Delhi, Chairman, Coal India Ltd., Kolkata and Regional Manager, Metal Scrap Trading Corporation Ltd., Kolkata to appear in person before the Court and produce the relevant documents required by the court.

The learned Solicitor General appearing for the applicant has submitted that though the copies of the documents required by the court are already on record, still the originals of the same will be made available to the Court as directed by it, hence, personal presence of the officers named herein above may be dispensed with. We think on the facts and circumstances of this case it is reasonable prayer hence, we direct the officers named in the order of the High Court and referred to herein above to direct the production of the required documents through any designated officers or through their counsel appearing in the High Court on 8th of March, 2005. We make this order on an assurance given by the learned Solicitor General. On that basis we stay the direction of the High Court for the personal presence of the above named officers of the time being.

The learned Solicitor General then submitted that nearly 3.4 lacs metric tons of coal is lying in stock in open yard with the North Eastern Coalfields, and because of the delay in disposal of the writ petition by the High Court the said stock of coal is getting deoxydised, because of which the quality of coal is deteriorating. He submitted if the claim of the respondents named herein above is to be upheld that Would only require about 8 rakes of coal to satisfy their need hence, North Eastern Coalfields is willing to supply the same at the rates prevailing in the month of December, 2004 to the named respondents herein subject to the condition that they would file an indemnity bond before the High Court undertaking to pay the difference in value in the event of their claim failing before the High Court. He also prays that the balance stock of coal in the North Eastern Coalfields may be permitted to be sold to the highest bidders in 'E' - Auction, to prevent the loss to the said Coalfields. We think this is also a reasonable offer, therefore, we direct the respondents named herein above, if they so desire to collect such quantity of coal which they last purchased from Northern Coalfields, to approach the authorities of North Eastern Coalfields land collect the said quantity of coal

A at the rate mentioned herein above within two weeks from today after furnishing the undertaking. If the said respondent companies fail to lift the coal as permitted to them by this order and on conditions herein, it will be open to North Eastern Coalfields to dispose of the same in accordance with their new policy.

B This interim order is made because of the facts and circumstances of this case. As observed in the order dated 14th of February, 2005 we once again request the High Court to dispose of the writ petitions at an early date preferably by 15th of March, 2005 since we are told that the arguments in the petitions are almost complete.

C Ordered accordingly.

R.P.

Petitions disposed of.