

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet
WPC No. 497 of 2023

- S.E.C.L. Baikunthpur Area District- Korea Chhattisgarh. Through Its Authorised Signatory Sanjay Kumar Singh S/o R. B. Singh Aged About 52 Years Working As Chief Manager (Mining) R/o Baikunthpur Area, Secl, District : Koriya (Baikunthpur), Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhawan, Nawa Raipur, Atal Nagar Raipur, District : Raipur, Chhattisgarh
2. Divisional Forest Officer Baikunthpur Forest Division, District : Koriya (Baikunthpur), Chhattisgarh
3. (Deleted) Union Of India As Per Honble Court Order Dated 27-01-2023.

---- **Respondents**

WPC No. 509 of 2023

- S.E.C.L. Bhatgaon Area District Surajpur Chhattisgarh. Through Its Authorised Signatory

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Forest Mahanadi Bhawan, Nawa Raipur, Atal Nagar Raipur, District Raipur Chhattisgarh.
2. Divisional Forest Officer, Surajpur Forest Division District Surajpur Chhattisgarh.
3. Union Of India, Through The Secretary, Ministry Of Forest, New Delhi.

---- **Respondents**

WPC No. 538 of 2023

- S.E.C.L. Raigarh Area District Raigarh Chhattisgarh Through Its Authorised Signatory Narayan Chandra Senapaty S/o Late Musa Senapaty Aged About 57 Year Presently Working As Sr. Manager (Mining) R/o S E C L Raigarh Area, District : Raigarh, Chhattisgarh

---- **Petitioner**

Versus

1. State Of Chhattisgarh Through The Secretary Department Of Forest, Mahanadi Bhawan, Nawa Raipur Atal Nagar, Raipur, District : Raipur, Chhattisgarh
2. Divisional Forest Officer Raigarh Forest Division, District : Raigarh, Chhattisgarh
3. Union Of India Through The Secretary, Ministry Of Forest New Delhi, District : New Delhi, Delhi

---- Respondents

WPC No. 587 of 2023

- S.E.C.L. Bishrampur Area Distt. Surguja (C.G.) Through Its Authorised Signatory Mr. B. Gowtham Dut, S/o B V Naik, Aged About 30 Years Working As Nodal Officer (Env't And Forest) Biashrampur Area, S.E.C.L. Dist./ Surajpur (C.G.)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur, Distt. Raipur (C.G.)
2. Divisonal Forest Officer Bishrampur Forest Division Distt. Surguja (C.G.)
3. Union Of India Through The Secretary, Ministry Of Forest, New Delhi.

---- Respondents

WPC No. 589 of 2023

- S.E.C.L. Gevra Area District- Korba Chhattisgarh. Through Its Authorised Signatory Gagan Kumar Kopariha, S/o Late B. P. Kopariha Aged About 58 Years Presently Working As Chief Manager (Env. And Fkorest) R/o Gevra Area S E C L, District : Korba, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhawan, Nawa Raipur, Atal Nagar Raipur, District : Raipur, Chhattisgarh
2. Divisional Forest Officer Gevra Forest Division, District : Korba, Chhattisgarh
3. Union Of India Through The Secretary, Ministry Of Forest, New Delhi, District : New Delhi, Delhi

---- Respondents

WPC No. 610 of 2023

- S.E.C.L. Hasdeo Area, Distt. Koriya (C.G.) Through Its Authorised Signatory Ashutosh Pandey S/o Late R.D. Pandey Aged About 48 Years Presently Working As Sr. Manager (Mining) Secl R/o.. Secl Hasdeo Area Dist. Distt. Koriya Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur, District Raipur Chhattisgarh
2. Divisional Forest Officer, Hasdeo Forest Division District Koriya Chhattisgarh
3. Union Of India, Through - The Secretary, Ministry Of Forest, New Delhi

---- Respondents

WPC No. 611 of 2023

- S.E.C.L. Korba Area District Korba (C.G.) Through Its Authorised Signatory Swapnil Suman S/o Yogendra Kumar Gupta Aged About 32 Years Presently Working As Dy. Manager (Envt) Area Nodal Officer (Envt And Forest) R/o Secl Korba Area, District : Korba, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhawan, Nawa Raipur, Atal Nagar, Raipur, District : Raipur, Chhattisgarh
2. Divisional Forest Officer Korba Forest Division, District : Korba, Chhattisgarh
3. Union Of India Through The Secretary, Ministry Of Forest, New Delhi.

---- Respondents

WPC No. 658 of 2023

- S.E.C.L. Chirmiri Area District Korea Through Its Authorised Signatory, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi

Bhawan, Nawa Raipur Atal Nagar, Raipur, District : Raipur, Chhattisgarh

2. Divisional Forest Officer Korea Forest Divisional, District : Koriya (Baikunthpur), Chhattisgarh
3. Union Of India Through The Secretary, Ministry Of Forest New Delhi, District : New Delhi, Delhi

---- Respondents

17.02.2023	<p>Mr. V.R. Tiwari, Sr. Advocate with Mr. Vaibhav Shukla and Mr. Ujjwal Choubey, counsel for the petitioners.</p> <p>Mr. Rahul Jha, Government Advocate for the State.</p> <p>Mr. Ramakant Mishra, Deputy Solicitor General, Mr. Tushar Dhar Diwan and Ms. Anmol Sharma, counsel for the UOI.</p> <p>Heard on application for grant of interim relief.</p> <p>Learned counsel for the petitioner-S.E.C.L would submit that they have assailed the order passed by the respective Forest Division whereby they have retrospectively levied transit fee under the provisions of Chhattisgarh Transit (Forest Produce) Rules 2001 and consequential notification dated 14.06.2002@ Rs. 7,00 per tonne on the transportation of coal from year 2002 to 2012.</p> <p>Learned State Counsel would submit that as per the provisions of Chhattisgarh Transit (Forest Produce) Rules 2001 the said rules have been framed by the State of Chhattisgarh, which were published on 25.08.2021. These rules were assailed before this Court on earlier occasion also</p>

and various States have framed these types of Rules and these rules have been challenged before various High Courts and thereafter the matters were traveled upto the Hon'ble Supreme Court and the Hon'ble Supreme Court had finally decided the issue in case of **State of Uttarakhand and Others Vs. Kumaon Stone Crusher reported in (2018) 14 SCC 537** wherein the Hon'ble Supreme Court has decided the issue that the rules are not beyond the capacity of the State legislation and the competency of the State Governments to frame such rules have been held to be valid.

Learned Sr. Counsel for the petitioners would submit that since no transit pass has been issued to them, therefore, no recovery for the period shall be made. He would draw attention of this Court towards the judgment of the Hon'ble Supreme Court particularly paragraph 215.6 has held as under:

“215.6 Rule 3 of the 1978 Rules is not independent of Rule 5 of the 1978 Rules. Transit fee is payable on all kinds of transit passes and cannot be confined only to transit passes as referred to in Rule 4(1)(b) only.”

Learned Sr. Counsel for the petitioners would further submit that under protest they have paid the entire amount raised by the Forest Department for SECL Baikunthpur Area, SECL Raigarh Area, SECL Bishrampur Area, SECL Korba Area and certain amount to the tune of Rs. 2.18 Crores out of total transit fee of Rs. 8,89,64,121/- for SECL Gevra Area, Rs. 19.15 Crores out of total transit fee of Rs. 225906895/- for SECL Chirimiri Area.

Since the dispute pertains to the period from 2002 to

2012, the effect and operation of the impugned orders issued by the Forest Department shall remain stayed till the next date of hearing. It is made clear that the payment of current period transit fee is a condition precedent for transportation of coal from these mines.

Sd/-

(Narendra Kumar Vyas)
JUDGE