



**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- OWP No. 812/2005

1. **Sharma Lime Kiln, Manthal, Udhampur through its Proprietor Sh. N. J. Durani, S/o Sh. B. L. Durani, R/o Barbar Shah, Srinagar, at present Ext-Sector 7, Channi Himat Housing Colony, Jammu, J&K, Age 50 years.**
2. **Bargotra Lime Industtires, Manthal, Udhampur through its Proprietor Sh. N. J. Durani, S/o B. L. Durani, R/o Barbar Shah, Srinagar, at present Ext-Sector 7, Channi Himat Housing Colony, Jammu, J&K Age, 50 years.**
3. **Shankar Lime Kiln, Manthal, Udhampur through its Proprietor Sh. N. J. Durani, S/o Sh. B. L. Durani, R/o Barbar Shah, Srinagar, at present Ext-Sector 7, Channi Himat Housing Colony, Jammu, J&K Age 50 years.**
4. **Rattan Lime Industries, Manthal, Udhampur, J&K, through its Proprietor Sh. N. J. Durani, S/o Sh. B. L. Durani, R/o Barbar Shah, Srinagar, at present Ext-Sector 7, Channi Himat Housing Colony, Jammu, J&K, Age 50 years.**
5. **Shiva Lime Industries, Manthal, Udhampur through its Proprietor Sh. N. J. Durani, S/o Sh. B. L. Durani, R/o Barbar Shah, Srinagar, at present Ext-Sector 7, Channi Himat Housing Colony, Jammu, J&K, Age 50 years.**
6. **Jai Durga Lime Industries, through its Proprietor Sh. N. J. Durani, S/o Sh. B. L. Durani, R/o Barbar Shah, Srinagar, at present Ext-Sector 7, Channi Himat Housing Colony, Jammu, J&K, Age 50 years.**
7. **K. K. Lime Industries, through its Proprietor Sh. N. J. Durani, S/o Sh. B. L. Durani, R/o Barbar Shah, Srinagar, at present Ext-Sector 7, Channi Himat Housing Colony, Jammu, J&K, Age 50 years.**
8. **Anil Line Industries, Sambal Udhampur, through Anil Sharma, S/o Shri H. S. Sharma, R/o 73/9, Nanak Nagar, Jammu, Age 48 years.**
9. **Panothra Lime Kilns, Mehtaka Kalakote, Rajouri through Anil Sharma, S/o Shri H. S. Sharma, R/o 73/9, Nanak Nagar, Jammu, Age 48 years.**
10. **Singh Line Industries, Mehtaka, Kalakote Rajouri through Anil Sharma, S/o Shri. H. S. Sharma, R/o 73/9, Nanak Nagar, Jammu, Age 48 years.**
11. **Vinod Lime Kilns, Tata Pani, Kalakote Rajouri, J&K through Anil Sharma, S/o Shri H. S. Sharma, R/o 73/9, Nanak Nagar, Jammu, Age 48 years.**
12. **Bharat Lime Products, Manthal, Udhampur, J&K through Bikram Singh Jamwal, S/o Shri Narinder Singh, R/o H. No. 294, Gandhi Nagar, Jammu, Age 40 years.**
13. **Shakti Lime Industries, Manthal Udhampur, J&K through Bikram Singh Jamwal, S/o Shri Narinder Singh, R/o H. No. 294, Gandhi Nagar, Jammu. Age 40 years.**
14. **Trishul Lime Kiln, Manthal Udhampur, J&K through Bikram Singh**



Jamwal, S/o Shri Narinder Singh, R/o H. No. 294, Gandhi Nagar, Jammu, Age 40 years.

....Petitioners

Through: Mr. Sunil Sethi, Sr. Advocate with
Mr. Paras Gupta, Advocate
Mr. U. K. Jalali, Sr. Advocate with
Ms. Shivani Jalali, Advocate

Vs

1. **Union of India through Secretary to Govt. of India, Ministry of Coal and Mines, New Delhi.**
2. **Bharat Coking Coal Limited. A Govt. Company and Subsidiary of Coal India Ltd. having its H. O. at Koila Nagar, Koyla Bhawan, Distt. Dhanbad, Jharkhand through its Chairman and Managing Director.**
3. **Chairman and Managing Director, Bharat Coking Coal Limited, Koila Nagar, Koyla Bhawan, Distt. Dhanbad, Jharkhand.**
4. **The General Manager (Sales & Marketing), Bharat Coking Coal Limited, Koila Nagar, Koyla Bhawan, Distt. Dhanbad, Jharkhand.**
5. **The Dy. Chief Sales Manager (Road Sale), Bharat Coking Coal Limited Koila Nagar, Koyla Bhawan, Distt. Dhanbad, Jharkhand.**
6. **Principal Secretary to Govt., Industries and Commerce Department, J&K Government, Civil Secretariat, Jammu.**

.....Respondents

Through: Mr. Vishal Sharma, DSGI

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

03.02.2025

1. On account of an intervening development in the form of adjudication of an identical writ petition, the disposal of this writ petition is being sought on behalf of the petitioners by laying a motion to said effect by filing IA No. 01/2018 read with CM No. 8456/2021 & CM No. 5801/2023. This Court sees a valid invitational basis for according adjudication to this writ petition



following the similar track as cited on behalf of the petitioners through the medium of the aforesaid three applications. However, before coming to end result, a brief reference to the subject matter of the present writ petition and also in relation to the identical disposed of writ petition needs to be set out.

2. The institution of this writ petition came to take place on 14.12.2005 involving fourteen petitioners, all being small-scale industrial concerns, then engaged in manufacturing of chemicals/fertilizers/ metals/briquettes in the then State of Jammu & Kashmir and all registered, as such, with respective District Industries Centre under J&K Industries Department.

3. In relation to the manufacturing activity an essential raw material required by the petitioners' units used to be steam/slack coal which was procurable only from the respondent No. 2 – Bharat Coking Coal Limited (in short "BCCL"), Dhanbad, Jharkhand.

4. It came to be pleaded in the writ petition that for the period from 1982 to 2002 the petitioners were involved in availing supply of said raw material of steam/slack coal from the respondent No. 2 – BCCL by placing orders against the payments made but an abrupt stoppage of supply of said booked raw material in the year 2002 despite having the supply orders along with payments made led the petitioners herein to filing of writ petition WP No. 3301/2004 before



the High Court of Jharkhand in order to seek restoration of supply of the raw material against the orders placed.

5. The purported cause which came to surface related to stoppage of supply of the raw material to the petitioners against the orders placed was that the Central Bureau of Investigation (CBI), ACB Dhanbad was involved in an investigation with respect to the supply of the raw material to the concern/s industrial units in J&K acting upon which District Industries Centre, Jammu in terms of a letter dated 24.06.2022 had urged the respondent No. 2 – BCCL to suspend the supply of steam coal and also not to refund the amount deposited by the buyers concerns as per the advice of the CBI, ACB Dhanbad.

6. As against this communication dated 24.06.2022 of the District Industries Centre, Jammu which had adversely affected the supply of raw material to the petitioners' concerns when none of the petitioners' concerns were involved in any act of omission and commission.

7. A communication dated 29.07.2022 by the Joint Director Industries, Jammu was addressed requesting the respondent No. 2 – BCCL for release of raw material against the payments tendered by the petitioners and other similarly situated industrial units of the State of Jammu & Kashmir.



8. Through this communication dated 29.07.2022, the Chief General Manager (S&M) of the respondent No. 2 – BCCL was requested to consider the cases for release of raw material as recommended by the General Manager, District Industries Centre, Udhampur for which the payments were made prior to July, 2002 for enabling the industrial units to resume the production activity.

9. The petitioners were constrained to put a legal notice to the respondent No. 2 – BCCL in response where to vide a letter dated 27.02.2004 it was disclosed that since CBI, ACB Dhanbad was investigating the case and, as such, on its advice the refund to the petitioners had been stopped.

10. On the other hand, the Superintendent of Police, ACB Dhanbad, vide his letter No. 5257/2/3(A)/02(D) dated 22.09.2004, apprised the respondent No. 2 – BCCL that it has referred the matter from its file to J&K Govt. for further necessary action, in which context the Govt. of J&K vide a Govt. Order No. 224-IND of 2004 dated 13.10.2004, had appointed the Special Secretary, Industries as an enquiry officer purportedly on the advice of CBI, ACB Dhanbad.

11. In this backdrop of the facts, the High Court of Jharkhand, by virtue of an order dated 24.12.2004, came to dispose of the writ petition WP No.3301/2004 leaving it for the CBI, ACB Dhanbad and the Govt. of Jammu & Kashmir to take a final decision as early as



possible preferably within a period of four months so as to facilitate the respondent No. 2 – BCCL to consider the request of the petitioners.

12. Following the disposal of the said writ petition WP No. 3301/2004 by the High Court of Jharkhand, the Principal Secretary, Industries & Commerce Department, Govt. of J&K, vide letter No. IND/01-JKCL/05 dated 11.04.2005, recommended the refund of the advance amounts to all the units of J&K having paid for supply of raw material and, accordingly, the process of refund of outstanding amount was undertaken in the year 2005 at the end of the respondent No. 2 – BCCL but without any finality thereby constraining similarly aggrieved industrial units, namely, Isha Chemicals & Micro Nutrients Private Limited and three others to file a writ petition OWP No. 803/2005 before this Court.

13. Following the footsteps of institution of the said writ petition OWP No. 803/2005, the petitioners came forward with the institution of the present writ petition. Thus, the two writ petitions came to have a shared theme.

14. By virtue of an order dated 03.01.2009, the two writ petitions i.e. OWP No. 803/2005 and the present writ petition OWP No. 812/2005 came to be tagged together for adjudication purposes.

15. During the pendency of the aforesaid two writ petitions, the respondent No. 2 – BCCL came forward with disclosure of a noting-



sheet bearing reference No.BCCL/S&M/LGL/2016/235 dated 29.08.2016 issued by Sr. Manager (M&SM) Legal & General Manager, S&M thereby disclosing that the petitioners were not entitled to get any interest on the principal amount already refunded in the year 2005-06 nor any further inadmissible claim. In this noting-sheet, the reference was made to the said two writ petitions i.e. OWP No. 803/2005 & OWP No. 812/2005 along with the writ petition WP(C) No.1246/2006 which was before the Jharkhand High Court.

16. The aforesaid development necessitated amendment in the two writ petitions and, accordingly, by virtue of an order dated 18.04.2017 leave was granted for carrying out the amendment of the writ petitions and that is how the present writ petition came up in its amended form on 12.05.2017.

17. In the pre-amended writ petition, the following relief was claimed:-

"It is, therefore, prayed for the reasons submitted herein above and those to be urged at the time of arguments, that the respondents may kindly be directed to supply the full booked quantity of Steam Coal to the petitioners on the booked rates applicable in the year 1998-2002, the dates when the cost of the coal was received by the respondents company, or in the alternative to release the whole amount withheld by the respondents company alongwith the



interest accrued thereon from the date of depositing the said amount and till the final realization of the amount, by the issuance of a writ, order or direction in the nature of mandamus.”

18. In the amended writ petition, the following relief came to be claimed:-

“It is, therefore, prayed, that the order of the respondents dated 29.08.2016 be quashed and the interest @ 18% be awarded in favor of the petitioners on the amount to the tune of Rs.1,48,87,476/- withheld illegally by them from the day it was deposited to the date of final realization.

It is further prayed that the respondents may kindly be directed to supply the un-lifted quantity of steam coal to the petitioners on the book rates which was applicable at that point of time in the year 2000 and also to release the balance amount withheld by the respondents company as per the records along with the interest accrued there on from the date of depositing of the said amount till the final realization.”

19. Objections/reply to the amended writ petition on behalf of the respondents No. 2 to 4 came to be filed on 03.06.2017.

20. As in none of the two writ petitions i.e. OWP No. 803/2005 and the present writ petition OWP No. 812/2005, CBI was a party,



as such, by virtue of an order dated 12.09.2017 CBI was impleaded as a party respondent.

21. By virtue of an order dated 26.09.2017, writ petition OWP No. 803/2005 otherwise connected with the present writ petition OWP No. 812/2005 was transferred from Jammu Wing to Srinagar Wing of this Court at the instance of the concerns being the petitioners in OWP No. 803/2005 and that is how the two writ petitions otherwise identically placed came to be de-tagged.

22. By virtue of a judgment dated 28.09.2018, the writ petition OWP No. 803/2005 came to be allowed by the writ court by quashing of noting-sheet No.BCCL/S&M/LGL/2016/235 dated 29.08.2016 of the respondent No. 2-BCCL with a further direction to the respondents in the said writ petition to release the amount of interest in favour of the petitioners of the said writ petition @ 18% per annum accrued on the payment of Rs.1,13,20,524/- deposited by the petitioners of the said writ petition and illegally withheld by the respondents of the said writ petition from the day the amount was deposited to the date of final realization. A further direction was given to supply the un-lifted quantity of steam coal to the petitioners of the said writ petition as booked by them on the rates as were applicable in the year 2000.

23. On the basis of this judgment dated 28.09.2018 in OWP No. 803/2005, the petitioners herein, by virtue of an application IA No.



01/2018 filed, came forward seeking disposal of the present writ petition on the parity basis in the light of the judgment dated 28.09.2018 with respect to OWP No. 803/2005.

24. Against said judgment dated 28.09.2018 in OWP No. 803/2005, a letters patent appeal LPAOW No. 05/2019 came to be filed which was disposed of vide judgment dated 29.10.2021 in which one part of the writ court direction was upheld whereas the second part with respect to a direction for supply of un-lifted quantity of the steam coal booked on the rates as applicable in the year 2000 was set aside. Thus, the direction with respect to release of the interest amount in favour of the petitioners of OWP No. 803/2005 @18% on the amount of Rs. 1,13,20,524/- was maintained.

25. The petitioners in the present writ petition came forward with a second application CM No. 8456/2021 for placing on record the judgment dated 29.10.2021 so passed by the Division Bench in LPAOW No. 05/2019 and again seeking disposal of the present writ petition in light of the LPA judgment.

26. Against the judgment dated 29.10.2021 of the Division Bench in LPAOW No. 05/2019, a special leave petition SLP(C) No. 6160/2022 was preferred which resulted in grant of leave in getting Civil Appeal No. 5421/2023 disposed of vide judgment dated 25.08.2023 by the Hon'ble Supreme Court of India in which the



judgment passed by the Division Bench of this Court was upheld but by reducing the rate of interest from 18% to 12% per annum.

27. The petitioners of the present writ at their own end came forward with third application CM No. 5801/2023 for placing on record the judgment dated 25.08.2023 of the Hon'ble Supreme Court of India passed in Civil Appeal No. 5421/2023 titled "*Bharat Coking Coal Ltd. and others Vs Isha Chemicals Micro Nutrients Pvt. Ltd. and others*" and seeking disposal of the present writ petition.

28. It is this intervening development as referred hereinbefore at the outset on the basis of which the disposal of the present writ petition is being sought. This Court sees no reason to deny the petitioners the adjudication of their writ petition on the identical track as has come up by interplay of single bench judgment dated 28.09.2018 in OWP No. 803/2005, judgment dated 29.10.2021 in LPAOW No. 05/2019 from the High Court of Jammu & Kashmir and Ladakh and the judgment dated 25.08.2023 in Civil Appeal No. 5421/2023 of the Hon'ble Supreme Court of India.

29. Thus, the respondent No. 2 – BCCL in particular is directed to pay interest in favour of the petitioners @ 12% per annum on the amount of Rs.1,48,87,476/- as being the amount which was deposited by the petitioners before getting refunded to them. Needful be done by the respondent No. 2-BCCL within a period of three



months from the date a certified copy of this judgment is served upon the respondent No. 2 – BCCL by the petitioners.

30. ***Disposed of.***

**(RAHUL BHARTI)
JUDGE**

JAMMU
03.02.2025
Muneesh

Whether the judgment is speaking :	Yes / No
Whether the judgment is reportable:	Yes / No

