



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9617 of 2023

Vedanta Limited through its General Counsel (Aluminium and Power), Kalahandi ***Petitioner***

Mr. Dhruv Mehta, Senior Advocate along with
Mr. Prashanta Kumar Nayak, Advocate
-versus-

Odisha Mining Corporation Ltd. and another ***Opposite Parties***

Mr. Pravat Kumar Muduli, Advocate for O.P. No.1
Mr. Subhabikash Panda, Addl. Govt. Advocate for O.P. No.2
Mr. Prasanna Kumar Parhi, DSGI along with
Mr. Satya Sindhu Kashyap, CGC for O.P. No.3

CORAM:

HON'BLE MR. JUSTICE MURAHARI SRI RAMAN

Order No.
07.

ORDER
31.12.2024

W.P.(C) No.9617 of 2023

&

I.A. No.17798 of 2024

2. Learned Senior Counsel appearing for the petitioner submitted that this Court *vide* order dated 29.03.2023 while issuing notice to the opposite parties passed the following interim order in I.A. No.4417 of 2023.

“ I.A. No.4417 of 2023

This application has been filed by the petitioner for grant of interim protection.

2. Mr. D. Mehta, learned Senior Counsel appearing for the petitioner contended that earlier the petitioner had approached this Court by filing W.P.(C) No.10280 of 2021, which was disposed of vide order dated 25.01.2023 directing the authority to consider the grievance of the petitioner, but the same was



rejected. It is further contended that in the said writ petition, this Court, vide interim order dated 06.04.2022 passed in I.A. No.2662 of 2021 permitted the petitioner to lift the agreed quantity of Bauxite for the remaining period of the financial year 2022-23 subject to payment of Rs.1000/- per MT which price will be exclusive of royalty, DMF & NMET, GST, weighment and sampling analysis charges, which will be charged extra, upon the petitioner furnishing an undertaking, similar to Annexure-A-1 to I.A. No.5392 of 2021, for the differential amount, with the floor price arrived at by the OMC under Rule 45 of the Minerals (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules, 2016 as amended subject to the final outcome of the writ petition. Therefore, it is contended that since the agreement is valid till 19th April 2023, this may continue till that period.

3. *In view of interim order dated 06.04.2022 passed in I.A. No.2662 of 2021 arising out of W.P.(C) No. 10280 of 2021, as an interim measure, this Court permits the petitioner to lift the agreed quantity of Bauxite for the remaining period of the financial year 2022-23 subject to payment of Rs.1000/- per MT which price will be exclusive of royalty, DMF & NMET, GST, weighment and sampling analysis charges, which will be charged extra, upon the petitioner furnishing an undertaking, for the differential amount, with the floor price arrived at by the OMC under Rule 45 of the Minerals (Other than Atomic and Hydro Carbon Energy Minerals) Concession Rules, 2016, as amended, subject to the final outcome of the writ petition. It is made clear that the agreement, which is valid till 19th April 2023, shall continue till that period subject to extension granted by the Government on the application of the petitioner.*



4. Issue urgent certified copy as per rules.”

2.1. Thereafter on 19.05.2023, this Court passed further order in I.A. Nos.7453, 7106 & 7455 of 2023, which reads as follows:-

“I.A. No. 7453, 7106 & 7455 of 2023

These matters are taken up through hybrid mode.

2. *Heard learned counsel for the parties.*

3. *I.A. No. 7453 of 2023 has been filed by the petitioner seeking clarification/ modification/ recalling of the order dated 15.05.2023 passed in I.A. No. 9617 of 2023, by which this Court observed that since the period of agreement has already been over w.e.f. 19.04.2023, therefore, the interim arrangement made by this Court vide order dated 29.03.2023 passed in I.A. No. 4417 of 2023 stands automatically lapsed on expiry of the period of agreement. It was also observed by this Court that unless the petitioner executes fresh agreement with the opposite party-OMC, the question of interim arrangement, at this stage, may not be possible and, accordingly, the matter was adjourned to after two weeks.*

4. *Dr. A.M. Singhvi, learned Senior Advocate appearing along with Mr. Dhruv Mehta, learned Senior Advocate and Mr. P.C. Sen, learned Senior Advocate brings to the notice of this Court that the Sales Agreement for Bauxite, which is annexed to I.A. No. 7455 of 2023 as Annexure-71, has been executed on 16.05.2023. In view of execution of fresh agreement dated 16.05.2023, cause of action arose for the petitioner to approach this Court for grant of interim order. Due to non-supply of raw material, i.e. Bauxite, the industry is facing a closure. Therefore, there is urgency in the matter. Accordingly, it is preponed to today for consideration of interim order.*



Consequentially, the matter is taken up today on filing of I.A. applications and mention being made by learned Senior Advocates for the petitioner.

5. After hearing learned counsel for the respective parties and considering the urgency involved and keeping in view the fact that the agreement has already been executed between the parties on 16.05.2023 and also that the petitioner is suffering because of non-supply of bauxite to its industry, this Court, in modification of the order dated 15.05.2023, directs that the interim arrangement as had been made by this Court vide order dated 29.03.2023, shall continue till next date. Needless to say, in the event of not succeeding in the writ petition, the petitioner will be liable to pay the entire demand raised by the opposite parties.

6. All the I.As. stand disposed of accordingly.

7. The parties are directed to complete the pleadings by end of June, 2023, by filing their respective counter affidavits and rejoinders affidavits, so that the matter can be taken up in the month of July, 2023.”

2.2. Subsequently, when the matter was taken up, the interim orders passed earlier got continued till date.

2.3. An Interlocutory Application, *i.e.*, I.A. No.17798 of 2024 has come to be filed on 30.12.2024 by the petitioner and got listed today in the Vacation Court. Urgency being mentioned, the interlocutory application has been moved with the following prayers:



“In the circumstances, it is therefore prayed that this Hon’ble Court would, in the interest of justice, graciously be pleased to allow the present Interim Application and:

- a) Allow the present Application;*
- b) Direct the OP1 to forthwith resume supply of Bauxite to the petitioner in accordance with the terms of the Interim Orders dated 29.03.2023, 19.05.2023, 21.10.2024, 04.11.2024 passed in the accompanying writ petition W.P.(C) 9617 of 2023 titled Vedanta Ltd. v. Odisha Mining Corporation Ltd. and Ors.; and*
- c) Stay the 13th National E-auction which is to be held on 01.01.2025 at 11.00A.M. to 2.00 P.M. floated by the OP1 and any further national e-auctions by OP1 and OP2, and stay its effect on the supply of Bauxite being made to the Petitioner, as well as the transposition and imposition of the Floor Price in the auction dated 01.01.2025, and also direct the Opposite party no.1 and 2 to not float any further national e-auctions by applying Rule 45, MCR 2016 till pendency of the accompanying Writ Petition; and*
- d) Extend the application of Orders dated 29.03.2023, 19.05.2023 passed in the accompanying Writ Petition, for the total agreed quantity of Bauxite in accordance with the terms and conditions of the said orders, till pendency of the accompanying Writ petition;*
- e) Without prejudice to prayer nos.(a)-(c) and supply of Bauxite to the petitioner, stay the implementation Rule 45(1), MCR 2016 on future National E-auction process*



by OPI/OMC till the final disposal of the accompanying writ petition; and

f) Pass such other order/orders, direction/directions as this Hon'ble Court may deem fit and proper.

And for this act of kindness, the Petitioner shall as in duty bound ever pray.”

2.4. Learned Senior Counsel appearing for the Petitioner argued that the Odisha Mining Corporation Limited has issued short notice of National E-auction of Bauxite scheduled to be held on 01.01.2025 “*as is where is, whatever there is and no complaint basis*”. Therefore, it is apprehended that such E-auction would result in non-supply of requisite Bauxite for refinery which may lead to not only reduction of production but also stoppage of industry itself.

3. At this stage, learned counsel appearing for the Odisha Mining Corporation Limited-opposite party No.1 submitted that the subject-matter of the E-auction being not relatable to the subject-matter of the present writ petition and such auction under Annexure-A to the Interlocutory Application shall not in any manner prejudice the interim order(s) passed by this Court.

4. Learned Additional Government Advocate appearing for the State-opposite party no.2 sought for short accommodation as learned Advocate General is not available today, who is supposed to address the matter.

5. Considering the submissions of learned counsel for the respective parties, it goes without saying that the interim orders as



reflected hereinabove, which are passed on earlier occasion when the present matter was taken up, shall continue till the next date of listing as conceded by the learned counsel for the respective parties.

6. Registry is instructed to list this matter in the week commencing 06.01.2025 for consideration of I.A. No.17798 of 2024. It is also conceded by Mr. Prashanta Kumar Nayak, learned counsel for the petitioner that he has already served copies of the said Interlocutory Application on the learned counsel for the opposite parties. It is open for the opposite parties to file objection by the next date.

(M.S. Raman)
Vacation Judge

Laxmikant