HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Spl. Appl. Writ No. 616/2022

1. The Rajasthan State Mines And Mineral Ltd., Through Its Managing Director, 4 Meera Marg, Udaipur 313004
2. The Group General Manager (Lignite), Sbu And Pc, The Rajasthan State Mines And Minerals Ltd., Khanij Bhawan, Tilak Marg, C-Scheme, Jaipur.
3. The Senior Manager (Mktg.), The Rajasthan State Mines And Minerals Ltd. Khanij Bhawan, Tilak Marg, C-Scheme, Jaipur.

----Appellants

Versus

1. Kapil Lignite, (Proprietor) Mangilal Jain S/o Shri Chatarbhujji Jain, Aged About 56 Years, R/o New Jain Mohalla Bhagu Jatiya Ki Gali, Barmer.
2. The Junior Manager, Mstc Ltd., 21, Kamalanjali Apartment, 2Nd Floor, Opposite Tube Company, Old Padra Rod, Akotta, Vadodara.

----Respondents

For Appellant(s)	:	Mr. Abhishek Mehta
For Respondent(s)	:	Mr. Trilok Joshi

HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE YOGENDRA KUMAR PUROHIT

Order(Oral)

12/02/2026

Per: Arun Monga, J

1. The present Special Appeal (Writ) has been filed by the appellant against a consent order dated 14.03.2022 passed by the learned Single Judge in S.B. Civil Writ Petition No.1579/2013, vide which the learned Single Judge has disposed of the writ petition with a direction to the appellant to hand over the material @

Rs.2,440/- plus applicable taxes, preferably within a period of three to four months.

2. Succinctly speaking, the relevant facts of the case are as under:-

2.1 Appellant No.1 is a Government company, engaged in mining and sale of minerals, including lignite, in the State of Rajasthan, with sales conducted through e-auctions on the platform of Respondent No.2.

2.2 Respondent No.1 challenged the e-auction scheduled on 19.02.2013 for Giral and Sonari mines, specifically assailing the eligibility condition restricting participation to actual bulk consumers with a minimum quantity of 5000 metric ton, alleging the same to be discriminatory.

2.3 The appellants justified the condition as a commercial decision aimed at preventing short lifting, ensuring efficient utilization of resources, and maintaining business viability, while also demonstrating that similar conditions were prevalent in other e-auctions.

2.4 Vide an interim order dated 19.02.2013 this Court permitted the respondent to participate in the auction subject to the final outcome of the writ petition.

2.5 However, the learned Single Judge, vide impugned order dated 14.03.2022 (under a mistaken consent), without adjudicating the validity of the tender condition or examining the merits, directed supply of the lignite solely on the basis of the interim order, ignoring the commercial nature of the transaction and the fact that no discrimination was caused to the respondent.

2.6 Hence, the instant appeal.

3. In the aforesaid backdrop, we have heard the rival contentions of the learned counsel for the parties.

4. Operative part of the impugned order reads as under:-

> "*At this juncture, learned counsel for the petitioner does not press this writ petition on merits and only prays for a direction that the petitioner may be permitted to lift the Lignite at the cost of highest bid amount after 31/05/2022.*
>
> *Learned counsel for the respondent assures this Court that in the event of availability of the Lignite with them after 31/05/2022 the balance of the material i.e. Lignite will be handed over to the petitioner within the shortage possible time preferably within a period of three to four months from today.*
>
> *It is made clear that the amount of Rs.2,440/- stated by the respondents is not inclusive of tax and, therefore, whatever applicable tax on the date of delivery will have to be paid by the petitioner.*
>
> *Accordingly, the petition is disposed of with a direction to the respondents to hand over the balance of the material i.e. Lignite within the shortage possible time preferably within a period of three to four months from today @ Rs.2,440/- plus applicable taxes.*
>
> *The stay application and other pending application, if any also stand disposed of.*"

5. First and foremost, the learned counsel for the appellant would submit that the consent which was given by the learned counsel for the appellant was subject to the petitioner being eligible in the category in which it wanted to bid, for which it was not allowed to participate, and it was only after verification of the eligibility that the offer made by the writ petitioner to allow it to lift the lignite @ Rs.2,440/- per metric ton could have been implemented.

5.1 He would submit that the writ petitioner had specifically sought the relief of directing the respondents to allow the small bidders like the petitioner to participate in the E-auction process for sale of lignite, as was earlier allowed, i.e. despite not having a captive power plant, as the said condition was arbitrary, and thus had also sought the relief of quashing and setting aside of the E-auction letter dated 11.02.2013 (Annx.8).

6. In the E-auction conditions, it was specifically stated as below:-

> "*Eligibility for Giral & Sonari Mines: The eligibility criteria in case of Giral & Sonari Mines to ensure committed lifting will be only those Actual Bulk consumers whose consumption is minimum 5000 MT per month for self use in their Captive Thermal Power Plant (CTPP).*"

7. In view of the aforesaid clause, on a query put to the learned counsel for the respondent No.1 as to whether the respondent No.1 (writ petitioner) has the requirement of a minimum consumption of 5000 metric ton per month of lignite for self-use and; whether it has a captive thermal power plant, he would candidly submit that the petitioner does not have any thermal plant wherein the lignite is required, but otherwise petitioner can lift 5000 metric ton per month.

8. It also transpires that even though in course of hearing, the respondent No.1 has submitted that it is in a position to lift 5000 metric ton per month, but otherwise it had made a bid only for one-time supply of 5000 metric ton and not 5000 metric ton per month. Same also reflects that in case it is allowed to lift 5000 metric tons per month, it would clearly not be for captive usage but for further commercial sale in the open market.

9. Be that as it may, it emerges that though the petitioner is in a position to lift 5000 metric ton per month, the same is obviously not for the purpose of self-use, as he does not have a captive thermal power plant and does not meet the eligibility criteria. To that extent, we are of the view that challenge to the E-condition is required to be adjudicated on merits and therefore, the consent given by the learned counsel for the appellants becomes meaningless.

10. Accordingly, we allow the appellants to withdraw the consent given by them in course of hearing before the learned Single Judge and set aside the consent order and remand the writ petition for adjudication on merits in accordance with law.

(YOGENDRA KUMAR PUROHIT),J **(ARUN MONGA),J**

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