

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

TRANSFER PETITION (CIVIL.) NO(s). 100 OF 2006

SOMAL PIPES PVT. LTD.

Petitioner(s)

VERSUS

COAL INDIA LTD. & ORS.

Respondent(s)

(With appln(s) for directions, stay and office report)

I.A.No....& I.A.No.4 (Application for impleadment and intervention)

With

I.A.Nos. 1-3 in T.P.(C) No.97/2006

(For stay and directions and office report)

With

I.A.Nos.1-3 in T.P.(C) No. 11/2006

(For stay and directions)

With

I.A.No.2 in T.C.(C) No. 15/2006

(For appropriate directions with office report)

With

I.A.No.1 in T.C.(C) No. 16/2006

(for appropriate directions)(with office report)

With

Contempt Petition(C) No. 50/2007 in T.C.(C) No. 41/2006

(With application for direction and office report)

With

Contempt Petition(C) No. 56/2007 in C.A.No. 5317/2006

(With office report alongwith adv. letter dated 26.7.2007)

With

Contempt Petition(C) No. 71/2007 in T.C.(C) No. 100/2005

(with office report)

With

I.A.No.7 in C.A.No. 5324/2006

(For directions with office report)

I.A.Nos. 3-11 in C.A.No. 5303/2006

(For directions)

I.A.No.3 in C.A.No. 5304/2006 (For directions)

I.A.No.3 in C.A.No. 5307/2006(For directions)

I.A.No. 8 in C.A.No. 5324/2006(For directions and office report)

Contempt Petition(C) No. 135/2007 In C.A. No. 5314/2006

(with office report)

with

Contempt Petition(C)No. 138/2007 in C.A. No. 5302/2006

(with appln. for impleadment)(I.A.No.5 -application for permission to file additional documents)

Contempt Petition (C) No. 139/2007 In C.A. No. 5302/2006

I.A.No.6 (Application for permission to file additional documents)

Contempt Petition(C) No. 18/2006 in T.C.(C) No. 101/2005

(with office report)

I.A.No.1 in T.C.(C) No.101/2005

(For directions)

Contempt Petition (C) NO. 19/2006 In T.C.(C) No. 19/2006

I.A.No. 1 in T.C.(C) No. 7/2006(For directions)

And

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I.A.Nos.2-4 in T.C.(C) No. 27/2006 (For directions)

And

I.A.No.4 in C.A. No. 5311/2006 (For direction with office report)

AND

I.A...../2007 in T.C.(C) No. 39/2006 (for directions)

I.A.Nos. 1-2 T.C.(C) No. 31/2006(For directions)

With

Contempt Petition(C) No. 282/2007 in C.A.No. 5315/2006(With office report)
I.A.No.3 in C.A. No. 5320/2006(For directions)
I.A.No....in T.C.No.113/2005(For directions with office report)

Date: 8.1.2008 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE MR. JUSTICE P.P. NAOLEKAR

For the parties:

For Coal India Ltd. Mr.G.E.Vahanvati, Solicitor General
Mr.Ajit Kumar Sinha, Adv.

UOI Mr. R.S. Rana, Adv.
Ms.Rajni Singh, Adv.
Mr. R.C. Kathia, Adv.
Mr.B.V.Balramdas, Adv.
Mr.V.K.Verma, Adv.

Mr.Devashish Bharuka, Adv.
Mr. A.M.Sinha, Adv.
Mr. S.D. Sanjay, Adv.
Mrs. Hansa Bharuka, Adv.
Mr. Pankaj Bhagat, Adv.
Dr. Sushil Balwada, Adv.

Mr. Devashish Bharukha, Adv.
Mr.Rajesh Singh, Adv.

BCCL & CIL Gp. Capt. K.S.Bhati, Adv.

Mr. Manish Kumar Saran, Adv.

C.P.138 & 139 Mr. P.P.Rao, Sr.ADV.
Mr. S. Chandra Shekhar, Adv.

T.C.(C) No.113/2005 Mr.Manish Pitale, Adv.
Mr.C.S.Ashri, Adv.

I.A.No.1 in Mr. Ashwani K.Dhatwalia, Adv.
T.C.(C) No.7/2006 Mr.Amit Meharia, Adv.
for M/s Meharaiia & Company

C.P.No.135/2007 Mr. Rana Mukherjee, Adv.
in C.P.No.282/07 Mr. Siddharth Gautam, Adv.
Mr. Goodwill Indeevar, Adv.

Mr.Gaurav Agrawal, Adv.

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Contept Ptn.71/07 Mr. Rudreshwar Singh, Adv.
Mr.Tapesh Kumar Singh, Adv.
Mr.Kaushik Poddar, Adv.
Mr. Ranjan Kumar, Adv.
Mr. Jitendra Mohan Sharma, Adv.

Mr. Anupam Lal Das, Adv.

Mr. B.B. Singh, Adv.(NP)

Mr. G.E.Vahanvati, Solicitor General
Mr.Anip Sachthey, Adv.
Mr. Mohit Paul, Adv.

UPON hearing counsel the Court made the following

ORDER

It is stated by the learned Solicitor General that the Coal Companies have received 583 applications out of which approximately 315 applications are in order.

Out of the aforementioned 583 applications, 459 pertain to BCCL, 90 pertain to CCL, 2 pertain to ECL, 29 pertain to NCL and 3 pertain to NEC.

So far as BCCL is concerned out of 459 applications, 192 applications seem to be in order.

Out of 192 applications, verification of applications is complete only in respect of 54 applicants. So far as those 54 applicants whose names are stated in bold letters in the Chart annexed to the affidavit affirmed by Mr. Amit K. Roy (as contained on page nos. 19-24) are concerned, the Registry is directed to pay the amount due to them from the amount of Rs. 33 crores deposited by the Coal India Ltd. subject to their furnishing undertaking and original receipt.

So far as rest 138 applications are concerned, it is stated that they would be finalised within four weeks by the learned counsel appearing on behalf of subsidiary coal companies of Coal India Ltd. on production of concerned documents.

So far as applications pertaining to CCL are concerned, out of 90 applications 88 are said to be in order and the names of the concerned applicants appear in the affidavit affirmed by Mr. A.P. Trivedi (page 33 of the paper book.) Serial Nos. 70 and 83 are not in order and that will be subject to submission of indemnity bond and or

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the undertaking. Registry may make payment to the concerned applicants.

So far as two applications pertaining to ECL are concerned both are clear subject to submission of indemnity bond and or the undertaking. Registry is directed to make necessary payments whose names appear in the affidavit affirmed by Mr. Amitava Nayak (at page 45 of the paper book.)

Similarly, all the applications pertaining to NCL have been found to be in order, the Registry is directed to make necessary payments whose names appear in the affidavit affirmed by Mr. V.M. Dwivedi (Chart at page 49) subject to production of original receipt.

As noticed hereinbefore three applications of the consumers of the Coal from the NEC having been found to be in order. The Registry is directed to make payments to them also except to S.K.J. Coal Ltd. formerly known as Mahabir Coal. In respect of S.K.J. Coal Ltd. a separate order shall be passed in due course.

It is stated at the Bar that 12 matters pertain to Western Coalfields Ltd., which were disposed of by this Court upon allowing transfer applications filed by Western Coalfields. Out of the said 12 matters, applications for payment have been filed by eight applicants.

We may, at this stage, notice the interim order passed by the Nagpur Bench of the Bombay High Court which is in the following terms:

"..... The respondent nos. 2 & 3 are directed to supply coal to petitioner at notified price subject the petitioner's depositing with Western Coal Fields Ltd. the difference between the average E-Auction price and notified price. The amount so deposited will be kept in the separate account by Western Coal Fields Ltd. in the Nationalised Bank in fixed deposit and that would be subject to the final orders that would be passed by this Court. The other contention raised would be subject, as set out earlier, to final order in the writ petition. This order will apply to all transactions from today."

The applications filed for refund of the excess amount deposited by those applicants may now be processed. Those applicants who are yet to file their applications pertaining to any of the aforementioned matters are directed to do so within six weeks from date, if they are petitioners before this Court.

Those applicants may also file their undertakings which they have filed before this Court within the aforementioned period. On

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receipt of the said documents the learned counsel for Western Coalfields Ltd. may see to it that necessary verification thereof is carried out.

It is stated by Mr. P.P. Rao, learned senior counsel appearing on behalf of Domco Smokeless Fuels Pvt. Ltd. that his client has already deposited the excess amount pursuant to the interim order passed by the Jharkhand High Court. Let

details of such deposit be examined by Mr.Ajit Kumar Sinha, learned counsel appearing on behalf of the BCCL within the aforementioned period.

On instructions, it is stated by the learned counsel appearing on behalf of the BCCL that bank guarantees have been discharged.

Mr. Manish Kumar Saran, learned counsel seeks leave of the Court to withdraw I.A. in Somal Pipes Vs. UOI(Amlgamated Cokes and Fuels (I) Pvt.Ltd.). The said application is dismissed as withdrawn.

Six weeks' further time is granted to all the petitioners who could not apply for refund to file an application before the learned counsel for the Coal India Ltd. subject to the condition that they were parties before this Court.

Cheque for the requisite amount will be issued by the Registry in favour of coal consumers/petitioners either directly or through their advcoate-on-record.

The cheques may also be issued in the name of units concerned by an Account Payee cheque on production of proof of their having account in the said bank.

Put up for further orders after six weeks.

(Meenu Sethi)
Court Master

(Pushap Lata Bhardwaj)
Court Master