

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
CIVIL APPEAL NO(S). 3797 OF 2007

M/S TATA REFRACTORIES LTD.  
& ANR. ETC. . . . . APPELLANT(S)

VERSUS

STATE OF ORISSA & ORS.  
ETC. . . . . RESPONDENT(S)

ORDER

1. By order dated 27<sup>th</sup> July, 2017 this

Court has directed as follows:

“The State of Odisha to inform the Court on the next date fixed its stand in the matter of exclusion of the area in question from NAC and constitution of an “industrial township”. The State will take its decision in the matter and lay the same before the Court having due regard to the several factors enumerated in the proviso to Article 243Q of the Constitution and what has happened in the last decade so far as development of the area involved is concerned, particularly, having regard to the services, facilities, etc. which may be provided

by the appellant - Tata Refractories Ltd. or by the NAC, as may be.

The aforesaid decision of the State of Odisha be laid before the Court within six weeks from today.

2. Pursuant thereto a decision in the file has been taken by the Department of Housing and Urban Development, Government of Odisha on 7<sup>th</sup>/11<sup>th</sup> September, 2017 to the effect that the area covered by the Tata Refractories Ltd. (TRL) shall continue to be a part of the Belpahar Municipality and will not be included/declared as an "Industrial Township".

3. Learned counsel for the State and the Municipal Body has submitted that though the aforesaid order has been passed in the file/note-sheet the same may be taken to be a formal order of the State Government.

4. Proceeding on the said basis and having read the said order we find that a part of the directions contained in this Court's order dated 27<sup>th</sup> July, 2017, namely, that in arriving at its decision in the matter, the State will take into account the developments of the last decade, particularly, with regard to the services, facilities, etc. which may have been provided by the appellant - Tata Refractories Ltd. or by the NAC (Municipal body), as may be, has not been given due regard to. This is a conclusion that the Court reaches on reading the statement enclosed to the affidavit of the respondent - State dated 4<sup>th</sup> December, 2017 titled as "Statement showing the detailed of major developmental works during the period from 1999-2000 to 2016-2017 in respect of Belpahar Municipality". To arrive at the aforesaid conclusion we have also taken

into account the statements made by the appellant - TRL in the Additional Affidavit dated 20<sup>th</sup> July, 2016, particularly, the chart available in paragraph 6 of the said affidavit. We clarify, if any such clarification is at all required, that what the court intended at the time of passing the order dated 27<sup>th</sup> July, 2017 is that the decision of the State as directed will be on the basis of the several factors enumerated in the proviso to Article 243Q of the Constitution of India and insofar as municipal services provided or proposed to be provided by the industrial establishment are concerned, the developments of the last decade in this regard with regard to services, facilities, etc. provided by the appellant - TRL or by the NAC (Municipal Body), as may be, will be taken into account at the time of reaching the required conclusion.

5. Reading the order dated 7<sup>th</sup>/11<sup>th</sup> September, 2017, *ex facie*, it appears to us that the requirements contained in this Court's order dated 27<sup>th</sup> July, 2017 has not been followed by the State Authorities in the Housing and Urban Development Department. We, therefore, are not inclined to examine the contentions advanced in support of the said decision/order dated 7<sup>th</sup>/11<sup>th</sup> September, 2017 in a situation where the same is based on a part consideration of the directions of this Court dated 27<sup>th</sup> July, 2017. As the aforesaid order dated 7<sup>th</sup>/11<sup>th</sup> September, 2017 does not comply with the requirements spelt out by this Court in its order dated 27<sup>th</sup> July, 2017 we deem it proper to set aside the decision/order dated 7<sup>th</sup>/11<sup>th</sup> September, 2017 contained in the file/note-sheet enclosed to the Affidavit filed on

behalf of State of Odisha dated 4<sup>th</sup> December, 2017. The State Government, naturally, will be free, in fact, will be required to pass a fresh order taking into account the directions contained in the order of this Court dated 27<sup>th</sup> July, 2017. This will be done by the State of Odisha as expeditiously as possible. In the event, the said decision of the State of Odisha is adverse to the appellants it will be open for them to avail of such remedies as may be available in law.

6. Until a decision, as aforesaid, is arrived at we direct that the property/holding tax under the Orissa Municipal Act including arrears till date be paid by the appellant(s) within four weeks from today. The amount collected as Octroi which is now lying in deposit with the High Court will be appropriated by the

Municipal Body and in case any withdrawal has already been made the balance thereof will be so appropriated. All other municipal dues that may be due will also be paid by the appellant(s) until a final decision in this regard is arrived at.

7. The appeal consequently stands disposed of in the above terms.

....., J.  
(RANJAN GOGOI)

....., J.  
(R. BANUMATHI)

....., J.  
(MOHAN M. SHANTANAGOUDAR)

NEW DELHI  
MARCH 15, 2018

ITEM NO.101

COURT NO.3

SECTION XI-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

CIVIL APPEAL NO(S). 3797/2007

M/S TATA REFRACTORIES LTD. & ANR.ETC. APPELLANT(S)

VERSUS

STATE OF ORISSA & ORS.ETC. RESPONDENT(S)

Date : 15-03-2018 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE RANJAN GOGOI  
HON'BLE MRS. JUSTICE R. BANUMATHI  
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Appellant(s)

Mr. Gopal Jain, Sr. Adv.  
Mr. Siddharth Bhatnagar, Adv.  
Mr. R.N. Karanjawala, Adv.  
Mr. Debmalya Banerjee, Adv.  
Mr. Kartik Bhatnagar, Adv.  
Mr. Manish Sharma, Adv.  
Mr. A.S. Aman, Adv.  
Mr. Aviral Kapoor, Adv.  
Ms. Iara. Khalid, Adv.  
Mrs. Manik Karanjawala, AOR  
for M/s Karanjawala & Co., AOR

For Respondent(s)

Mr. Debal Kumar Banerji, Sr. Adv.  
Mr. Krishnayan Sen, AOR  
Mr. Ankit Jain, Adv.  
  
Mr. Sanjeeb Panigrahi, AOR  
Mr. Girijapati Kaushal, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is disposed of in terms of the signed order.

[VINOD LAKHINA]

AR-cum-PS

[ASHA SONI]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]