

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

ORIGINAL SUIT No.3/2004

STATE OF BIHAR

Petitioner(s)

VERSUS

STATE OF JHARKHAND & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T.,permission to file additional documents and office report)

WITH SLP(C) NO. 17232 of 2008

(With appln. for stay and prayer for interim relief and office report)

SLP(C) NO. 17235 of 2008

(With appln. for permission to file lengthy list of dates and prayer for interim relief and office report)

(For final disposal)

Date: 13/01/2010 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TARUN CHATTERJEE
HON'BLE MR. JUSTICE DEEPAK VERMA

For Petitioner(s) Mr. Rakesh Dwivedi, Sr. Adv.
Mr. Gopal Singh, Adv.
Mr. Manish Kumar, Adv.

Mr. Rudreshwar Singh, Adv.
Mr. Kaushik Poddar, Adv.
Mr. Gopal Jha, Adv.
For Mr. E.C. Agrawala, Adv.

Mr. Jayant Kumar Mehta, Adv.

For Respondent(s) Mr. Mohan Jain, ASG
Mr. S.K. Dubey, Sr. Adv.
Mr. Yogesh Tiwari, Adv.
Mr. Dinesh Thakur, Adv.
Ms. Rohini Mukherjee, Adv.
Ms. Jaspreet Aulakh, Adv.
Mr. S.W.A. Qadri, Adv.
Mr. A.K. Sharma, Adv.
For Mr. Shreekant N. Terdal, Adv
For Mr. B.V. Balram Das, Adv.
For Mrs. Anil Katiyar, Adv.

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Mr. Rudreshwar Singh, Adv.
Mr. Kaushik Poddar, Adv.
Mr. Gopal Jha, Adv.
For Mr. Sanjay Jain, Adv.

Mr. Navin Prakash, Adv.

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

The following issues are framed:

1. Whether on 15.11.2000, when the existing State of Bihar was divided into two states of Bihar and Jharkhand, the status of the respondent no.1 company undergo any change in view of it being not included in Ninth Schedule of Bihar Re-organization Act, which in turn is referable to Section 65 of the Bihar Re-organization Act?

2. Whether any company which does not fall within the ninth schedule referable to Section 65 can be annexed or usurped by taking recourse to Section-47 of the Act?

3. Whether Section 47 of the Bihar Re-Organization Act 2000 is applicable to a company incorporated under the India Companies Act 1956 despite Section 65 of the Bihar Reorganisation Act 2000 and consequently Tenughat Thermal Power Station at Lalpania would or would not vest in the successor State of Jharkhand?

4. Whether Section 47 envisages issuance of notification in respect of fait accompli with regard to any undertaking of the existing State of Bihar fulfilling the requirement as per Section 47 of the Act?

5. Whether Respondent No.1 company, incorporated under the Companies Act, was at all covered by commonly known expression of undertaking which has not been defined in the Bihar Re-Organization Act?

6. Whether Section 46(3) of the Bihar Re-Organization Act, 2000, applicable to the investments made by the erstwhile State of Bihar which in the present case is referable to the investments

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made in the shares of TVNL, postulates passing of such investments/shares of TVNL to the State in which the principal seat of business of the undertaking is located and consequently the TVNL would or would not vest in the successor State of Bihar?

7. Whether the Central Govt. is legally competent to decide the issue of take over of the Respondent No.1 Company, not named and included under any provisions of the Bihar Re-Organization Act?

8. Whether the impugned notification issued on 27.02.2001, making amendment in the existing Articles and Memorandum of Association, without approval of the Board of Directors of the Respondent No.1 company and also without prior approval of the Registrar of the Companies, Bihar, Patna is wholly illegal and without jurisdiction?

9. Whether the Govt. of India failed to issue directions in exercise of its power under Section 63 of the Bihar Re-Organization Act?

10. Whether the order dated 31.10.2002 passed by the Govt. of India holding that the assets and liabilities relating to TVNL passed to the successor State of Jharkhand under Section 47 of the Bihar Re-Organization Act, 2000, is illegal and invalid?

11. Whether the notification of the Govt. of Jharkhand dated 27.02.2001 and 24.05.2001 is null and void as well as without jurisdiction?

12. Whether under Section 47 of the Bihar Re-Organization Act, 2000, the Tenughat Thermal Power Station at Lalpania would not

vest in the successor State of Jharkhand?

13. Whether under the Bihar Re-Organization Act, 2000, the Tenughat Vidyut Nigam Limited would not vest in the successor State of Jharkhand?

14. Whether Tenughat Thermal Power Station is not an "Undertaking of the erstwhile State of Bihar" within the meaning of and for the purpose of Section 47 of the Bihar Re-Organization Act, 2000?

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15. Whether the notification of the Government of Jharkhand dated 27.2.2001 and 24.5.2001 is null and void as well as without jurisdiction?

16. Whether the order dated 31st October, 2002, passed by the Government of India holding that the assets and liabilities relating to Tenughat Vidyut Nitam Ltd. passed to the successor State of Jharkhand under Section 47 of the Bihar Re-Organization Act, 2000, is not legal and valid?

Plaintiff and defendants to file witness schedule, if any and file the documents or affidavit within a period of six weeks.

Counter, if any, in special leave petitions, may be filed in the meantime.

(R.K. Dhawan)
Court Master

(Veera Verma)
Court Master