

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS  
IA 122-142/2009  
in  
CIVIL APPEAL NO. 7220-7239 OF 2000

BIHAR STATE EELECTRICITY BOARD

Appellant/Applicant

VERSUS

M/S.PULAK ENTERPRISES & ORS.

Respondent(s)

(With appln(s) for modification and direction & office report)

Date: 25/01/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN

For Appellant(s)

Mr. Ravindra shrivastava, Sr.Adv.  
Mr. Kunal Verma, Adv.  
Mr. Navin Prakash,Adv.  
Mr. Anup Jain, Adv.  
Mr. Sonal Tripathi,Adv.  
Mr. Abhishek Vikas,Adv.  
Mr. Arjun Lal, Adv.

Mr. R.N. Karanjawala,Adv.  
Ms. Manik Karanjawala,Adv.  
Ms. Nandini Gore,Adv.  
Mr. Kartik Bhatnagar,Adv.  
M/s. Karanjawala & co.

Mr. Praveen Kumar,Adv.  
Mr. Gopal Prasad, Adv.

For Respondent(s)

Mr. Praveen Kumar,Adv.  
Ms. Sunita Sharma ,Adv  
Ms. Manjula Gupta ,Adv

Mr. Ashwarya Sinha, Adv.  
Mr. Shwetabh Sinha, Adv.

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Mr. Ambhoj Kumar Sinha ,Adv

Mr. Gopal Prasad ,Adv

Mr. S. Chandra Shekhar ,Adv  
Mr. Manoj Kumar, adv.

Mr. Navin Prakash  
Mr. Himanshu Shekhar

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

The appellant has made these applications seeking clarification in regard to para 46 of the final judgment dated 15.04.2009 by a Bench of this Court in certain appeals filed by the appellant. The clarification is sought in regard to the following direction in para 46 which reads as follows:

"46. We direct that the actual be worked out within three months from today. The adjustment of Rs.100 crores be worked out accordingly. The appeals are accordingly disposed of."

The appellant/applicant has contended that the said direction is not capable of being implemented. Para 16 of the application which is relevant is extracted below:

"16. That it is submitted with utmost

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respect that the aforesaid directions, viz., adjustment of Rs.100 crores be worked out on actual basis within three months from the date of the judgment and order, and as a necessary consequence revise the rate of fuel surcharge for the relevant year, seem to have been passed by this Hon'ble Court on the premise as if the dispute with the coal companies in regard to payment of Rs.100 crores on account of quality and quantity of the coal supplied to the erstwhile BSEB has been settled and payment and/or adjustment has been actually made. However, since the dispute with the coal companies has not yet been settled, it is not possible as of now to comply with the said directions of this Hon'ble Court. Further, and in any event, unless and until the JSEB discloses all the relevant facts and figures with regard to finalisation and/or outcome of settlement of the claims and counter claims of the coal companies, it would not be possible for the Applicant herein(successor BSEB) along to carry out the said directions. Accordingly, it is submitted, the said order and/or direction of this Hon'ble Court ought to be suitably modified to the effect that the said direction is not capable of being implemented by the Applicant successor Board in the present circumstances and that the adjustment as directed may be carried out by the JSEB after the dispute between the said coal companies and the JSEB is settled as indicated in the said letter dated 3.7.2009

(which has been marked as Annexure 'B' hereto) of the JSEB".

The direction in para 46 of the judgment has to be read in the context of what has been stated in para 45 of the judgment. When if it is read and understood in the light of what has been stated in para 45, there is no room for any ambiguity.

The time granted for completing the exercise, is extended by another four months from today. IAs stand disposed of accordingly.

(O.P. Sharma)  
Court Master

(M.S. Negi)  
Court Master