

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

Petition(s) for Special Leave to Appeal (Civil) No.13458/2000
(From the judgement and order dated 04/07/2000 in WP 3009/2000
of The HIGH COURT OF M.P AT JABALPUR)

ADDL. SECRETARY, M/O STEEL & MINES & ORS

Petitioner (s)

VERSUS

M.P. ELECTRICITY BOARD & ANR.

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for bringing on record addl.facts and documents and
permission to file copy of W.P.)
With

SLP(C)...CC 8162/2000

Date : 08/01/2001 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE U.C. BANERJEE

For Petitioner (s) Mr. Harish Salve,SG
Mr. Anip Sachthey,Adv.
Mr.Jayat Panday,Ms.Sandhya Rajpal and
Mr. Arijit Prasad,Advs.

For Respondent (s) Mr.K.Parasaran,Sr.Adv.
Mr. Vivek Tankha,Adv.Gen.
Mr. Satish K. Agnihotri,Adv.
Mr. Rohit K.Singh,Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....J.
.SP2

Leave granted.
The appeal is disposed of.
SLP(C)...CC(8162/2000): Delay condoned. The SLP is
disposed of in view of the order in SLP(C) No. 13458/2000.

.SP1
(Y.P.Dhamija) (Suneet Bala Sharma)
Court Master Court Master

Signed order is placed on the file.

.PL56

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.305/2001@@
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(arising out of SLP(C) No. 13458/2000)

Addl.Secretary,Govt of India
and Ors. ...Appellants

Vs.

M.P.Electricity Board & Anr. ...Respondents

O R D E R@@
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Leave granted.

This appeal is against the interim order of the High Court of Madhya Pradesh in a pending Writ Petition. The Writ Petition itself had been filed by the Electricity Board with the prayer that the Coal India should be injuncted from discontinuing supply of coal notwithstanding the huge arrears to the tune of Rs.539/-Crores have not been paid. The High Court initially passed an interim order on 22.5.2000 directing that a sum of Rs.25/-Crores should be deposited forthwith before 10th June and that the running bills must be paid and on such condition being satisfied the Coal Company should continue to supply the coal to the Board. This order appears to have been modified by the impugned order dated 4.7.2000 by which the direction to deposit a sum of Rs.25/-Crores have been kept in abeyance but the condition that the appellant(Board) shall go on paying the running bills for the coal supply subject to the ultimate decision in the case in the connected matters still remain. We are

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really surprised to see the interim order being passed by the High Court in the matter of stay. Admittedly the Board has failed to pay all the coal dues in respect of the supply of coal to the Board. Under clause 8(4) of the Contract, the Coal Company is entitled to stop supply of coal if there is a continuous default on the part of the Board in making the price thereof. On the very facts, it is apparent that the Board has continuously failed in making the price of the supply of coal and therefore the High Court was wholly unjustified on such circumstances in granting an order of injunction in the manner as per the order dated 4.7.2000. It also was submitted by the learned Solicitor General appearing for the Coal Company that no opportunity was given to the said Coal Company to file its objections before the interim order was passed. In these circumstances, we set aside the impugned interim order of the High Court of M.P. dated 4.7.2000 and direct that the question of stay shall be re-considered in the light of several decisions of this Court and the principle enunciated in such matters after giving an opportunity to the Coal Company to place its case and after knowing fully the position about the default committed by the Board. This appeal is accordingly allowed. The Coal Company may file its objections within 2 weeks from today immediately whereafter the question of stay may be taken into consideration. Until the application for stay is considered the interim order passed by this Court will continue.

SLP(C)...../2000 (CC 8162/2000): Delay condoned.
In view of the above order, this SLP is disposed of.

.SP1

.....J.
(G.B. PATTANAİK)

New Delhi,
January 8, 2001

.....J.
(U.C. BANERJEE)