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C.A.No. 1262 OF 2001

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.1262 OF 2001@@
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M/s Bharat Coking Coal Ltd. & Anr. .. Appellants

Vs.

Arun Kumar Singh & Ors. .. Respondents

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A writ petition was filed before the High Court that the respondent should not be forcibly evicted from Quarter No.II/61 situated at old colony Jagjeevan Nagar, Dhanbad, to quash the quit notice issued by the appellants to the respondent and for certain other incidental reliefs.

Learned Single Judge of the High Court who dealt with the matter went on to consider various aspects of the matter other than the grievances of the respondent herein which was his primary duty to consider. The High Court unnecessarily took upon itself to consider the nature of administration and whether the allotment policy is justified or not and so on and so forth.It is brought to our notice that out of turn allotment in terms of Clause 5 and Clause 7(vi) of the policy would enable the authorities to allot not more than 7% of the total allotments and in our view the same cannot be stated to

be excessive. If that aspect had been borne in mind, the High Court would not have gone into the larger questions,but, simply decided the question before it. Unfortunately, in the appeal filed on the Latters Patent side again this aspect was lost sight of. The Division Bench of the High Court stated that the points considered by the learned Single Judge were germane to the decision of the writ petition. When the writ petition had not been decided on the merits of this particular case, how the Division Bench could state that the issues were germane, is beyond our comprehension. In view of this, the order made by the Division Bench and that of the learned Single Judge are set aside.

In the normal course we would not have remitted this matter to the High Court. The High Court has not considered the case of the respondent at all and particularly when examination of facts arise in this case, it would be appropriate for the High Court to express its view on the same and take appropriate decision. In these circumstances, we remit this matter to the High Court by restoring the writ petition for fresh consideration in accordance with law. In the

meanwhile status-quo shall be maintained until disposal of the appeal by the High Court. The appeal is allowed accordingly. Considering the nature of the matter and

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the facts arising in this case, it would be appropriate for the High Court to dispose of the matter as expeditiously as possible but not later than six months from today.

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[S. RAJENDRA BABU]@@
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[P.VENKATARAMA REDDI]@@
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New Delhi,@@
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February 13, 2002.

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ITEM NO.106 COURT NO.5 SECTION-XVII

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

CIVIL APPEAL NO.1262/2001

M/s Bharat Coking Coal Ltd. .. Appellant
& Anr.
Vs.

Arun Kumar Singh & Ors. .. Respondents

DATE : 13.2.2002 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE P. VENKATARAMA REDDI

For Appellant (s) : Mr. Mukul Rohtagi, ASG
Mr. Anip Sachthey, Adv.
Mr. Abhay Kumar, Adv.
Mr. Arijit Prasad, Adv.

For Respondent (s) : Mr. S.B. Upadhyay, Adv.

UPON hearing counsel the Court made the following
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Mr.Mukul Rohtagi, learned Addl. Solicitor General
and Mr. S.B. Upadhyay, learned counsel made their
submissions from 2.55 p.m. to 3.10 p.m.

Appeal is allowed in terms of the signed order.
Status-quo shall be maintained until disposal of the
appeal by the High Court.

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(Meenu Sethi)
Court Master

(Om Prakash)
Court Master

Signed order is placed on the file