

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 6597 of 2001@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising out of SLP(C) No. 15615 of 2001)

M/s. Southern Ispat Ltd. ...Appellant (s)

Versus

State of Kerala & Ors. ...Respondent(s)

O R D E R~@@
CCCCCCCC

Leave granted.

This special leave petition is directed against the order of the Division Bench vacating an ad inteim stay while the appeal against the judgment of the learned Single Judge is pending.

The claim of the appellant was that it was entitled to receive the concessional rate of tariff in accordance with the policy of the Government. The learned Single Judge considered the entire material and has come to the conclusion that the appellant is not entitled to any concessional rate of electricity inasmuch as there was no commercial production within the stipulated date. A learned Single Judge dismissed the O.P. on 03.07.2001. The appellant had approached the Division bench which had entertained the appeal.

On 05.07.2001, the Division Bench ordered that the same old arrangement may continue, but ultimately on 21.08.2001 has vacated the earlier order. Necessarily, therefore, there is

no order of stay operating by the Division Bench.

Having examined the findings of the trial Judge, we see no infirmity with the impugned order of the Division Bench vacating the earlier interim order granted by it while the appeal is pending. We, however, express no opinion on the merits of the appeal. Once the order of vacating stay dated 21.08.2001 is upheld by us, the appellant must be liable to pay the electricity charges in accordance with the normal rate and would not be entitled to claim the benefit of any concessional rate.

Mr. Misra, learned senior counsel appearing for the appellant, however submitted that even for the period he was granted to avail of 50 per cent of the demand pursuant to the interim order of the High Court while the writ petition was pending before the Single Judge, namely, 06.04.1999 till the dismissal of the writ petition, the concerned authorities have now claimed, the entire arrears on the normal rate. Logically the effect of dismissal of writ petition would be that the appellant would be liable to pay at the normal rate since the

claim of relief under concessional rate had been rejected. But, having regard to the fact that the judgment of the Single Judge is under appeal and the subject matter of the entitlement of the appellant to avail of the concessional rate is under consideration, it may not be just so far as the arrear demand is concerned for the period during which the appellant was paying at 50 per cent of the demand under the

orders of the Court. While therefore, there would be no bar for the appropriate authority claiming the electricity charges as per the normal rate from 3.7.2001, the date on which the writ petition stood dismissed. So far as the arrears is concerned, it would be appropriate not to raise any demand in respect of the balance 50 per cent which concessions the appellant had availed of under the orders of the Court from 6.4.1999 till 3.7.2001 and we accordingly so direct. Obviously this will be subject to the final decision in the appeal which is pending before the Division bench of the High Court. In respect of the aforesaid arrears for the period 6.4.1999 to 3.7.2001, learned Attorney General states that some condition should be put to secure the same. We leave the matter to the Division Bench of the High Court to consider the submission put forth by the learned A.G. and pass appropriate directions, if moved. This appeal stands disposed of accordingly. We request the High Court to dispose of the writ appeal early.

.SP1

.....J@@
BBBBBBBBBBBBBBBBBBBB
(G.B. PATTANAIAK)@@
BBBBBBBBBBBBBBBBBBBB

New Delhi
September 21, 2001

.....J@@
BBBBBBBBBBBBBBBBBBBB
(RUMA PAL)@@
BBBBBBBBBBBBBBBB

.PA
.PL65
ITEM No.16

Court No. 4

SECTION XIA

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

Petition(s) for Special Leave to Appeal (Civil) No.15615/2001
(From the judgement and order dated 21/08/2001 in CMP 5764/01
of The HIGH COURT OF KERALA AT ERNAKULAM)

M/S. SOUTHERN ISPAT LTD.

Petitioner (s)

VERSUS

STATE OF KERALA & ORS.

Respondent (s)

(With prayer for interim relief)

(With Appln(s). for permission to place addl. documents on record and exemption from filing c/c of the impugned Judgment)

Date : 21/09/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) Mr. P.N. Misra, Sr.Adv.
Mr. E.M.S. Anam,Adv.
Mr. Fazlin Anam, Mr. T.M. Sreedharan, Advs.

For Respondent (s) Mr. Soli J. Sorabjee, A.G.
Ms. Malini Poduval,Adv.
Ms. Lansinglu Rongmei, Adv.

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

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

Leave granted.
Appeal stands disposed of in terms of the signed
order.

.SP1

(J.S. Rawat)
Court Master

(Suneet Bala Sharma)
Court Master

(Signed order is placed on the file)