

ITEM NO.33

COURT NO.3

SECTION PIL-W

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

Writ Petition(s)(Civil) No.114/2014

COMMON CAUSE

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

- (1) IA NOS. 160451 AND 160455/2018 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS B/O MANORANJAN DAS)
- 2) IA NOS. 176881, 176885/2018 AND 58179, 108921/2019 (APPLNS. FOR INTERVENTION, DIRECTIONS AND SEEKING PERMISSION TO FILE ADDITIONAL DOCUMENTS ON B/O BIKASH CHANDRA)
- 3) IA NO. 27655 AND 54184/2022 (APPLN. FOR DIRECTIONS ON BEHALF OF BIKASH CHANDRA DEV)
- 4) IA NOS. 69256, 69260/2019 AND 98726/2022 (APPLNS. FOR INTERVENTION, DIRECTIONS AND SEEKING PERMISSION TO PLACE ON RECORD ADDL. DOCUMENTS ON B/O CHANDI PRASAD SHARMA)
- 5) IA NOS. 130079/2018 AND 130083/2018 (APPLNS. FOR DIRECTIONS AND CONDONATION OF DELAY ON B/O MRUNAL DAS)
- 6) IA NOS. 147147 AND 147136/2018 (APPLNS. FOR DIRECTIONS AND CONDONATION OF DELAY ON B/O KUNAL KISHORE DAS)
- 7) IA NO. 113096/2018 (APPLN. FOR DIRECTIONS ON B/O STATE OF ORISSA)
- 8) IA NO. 19209/2021 (APPLN. FOR DIRECTIONS ON BEHALF OF MIDEAST INTEGRATED STEELS LTD.)
- 9) IA NOS. 27088 AND 30300/2022 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF SANJAY KR. PAUL)
- 10) IA NOS. 49052 AND 49058/2022 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF ARJUN LADHA)
- 11) IA NO. 78138/2022 (APPLN. FOR CLARIFICATION ON BEHALF OF SHIV DATT SHARMA)
- 12) IA NOS. 106323 AND 106308/2022 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF DIPTI RANJAN PATNAIK)
- 13) IA NOS. 106304 AND 106336/2022 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF TARINI MINERAL PVT. LTD.)
- 14) IA NOS. 106292 AND 106334/2022 (APPLNS. FOR IMPLEADMENT AND DIRECTIONS ON BEHALF OF INDRANI PATNAIK)
- 15) I.A. NO. 116550/2022 (APPL. SEEKING MODIFICATION OF ORDER DT. 02.05.2022 ON B/O STATE OF ODISHA)
- 16) IA NO. 149040/2022 (APPLN. FOR EXTENSION OF TIME ON BEHALF OF MIDEAST INTEGRATED STEELS LTD.)
- 17) I.A NOS. 25684/2023 AND 25676/2023 (APPLN. FOR PERMISSION TO FILE ADDITIONAL DOCUMENT)"ONLY" IN W.P.(C) NO. 114/2014 ARE LISTED.NAMES OF THE FOLLOWING ADVOCATES MAY BE TREATED TO HAVE BEEN SHOWN IN THE LISTMR. HARISH N. SALVE, SR. ADVOCATE (A.C.)MS. APARAJITA SINGH, SR. ADVOCATE (A.C.)MR. A.D.N. RAO, SR. ADVOCATE (A.C.)MR. SIDDHARTHA CHOWDHURY, ADVOCATE (A.C.)MR. PRASHANT

BHUSHANMR. GURMEET SINGH MAKKERMS. KIRTI R. MISHRA,MR. PRESHIT SURSHE,MR. HITENDRA NATH,MR. NAVEEN KUMAR, MS. UTTARA BABBARMR. L.R. SINGHMR. DHANANJAYA MISHRAMR. ASHOK PANIGRAHI, ADVOCATES)

WITH

Diary No(s). 44077/2018 (XI-A)

(FOR ADMISSION and I.R. and IA No.15401/2019-CONDONATION OF DELAY IN FILING and IA No.15402/2019-CONDONATION OF DELAY IN REFILING IA No. 21295/2023 - APPLICATION FOR PERMISSION IA No. 15401/2019 - CONDONATION OF DELAY IN FILING IA No. 15402/2019 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS

IA No. 20318/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 27-02-2023 This petition was called on for hearing today.

**CORAM : HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA**

Mr. A. D. N. Rao, SR. Adv. (Amicus Curiae)

**For Petitioner(s) Mr. Naveen Kumar, AOR
Mr. Nitesh Bhandari, Adv.
Ms. Stuti Bisht, Adv.
Mr. Prabhat Kumar Rai, Adv.
Mr. Shourajeet Chakravarty, Adv.
Ms. Aprajita Bhardwaj, Adv.
Mr. Sankalp Suman, Adv.**

**Mr. Prashant Bhushan, AOR
Mr. Anurag, Adv.
Mrs. Neha Rathi, Adv.**

**For Respondent(s) Mr. Vikramjit Banerjee, ASG
Mr. Apoorv Kurup, Adv.
Mr. K. V. Sreemurthin, Adv.
Mr. Rajesh Singh Chauhan, Adv.
Ms. Priyadarshni Priya, Adv.
Mr. S. N. Terdal, AOR**

Ms. Ruchi Kohli, AOR

M/S. Aura & Co., AOR

Mr. E. C. Agrawala, AOR

Mr. Lakshmi Raman Singh, AOR

Mr. Rakesh Dwivedi, Sr. Adv.

Mrs. Kirti Renu Mishra, AOR
Ms. Sansriti Pathak, Adv.
Mrs. Apurva Upamanyu, Adv.

Mr. Ashok Kumar Panda, Sr. Adv.
Mr. Tejaswi Kumar Pradhan, AOR
Mr. Manoranjan Paikaray, Adv.
Mr. Shashwat Panda, Adv.

Mr. Gaurav Kejriwal, AOR

Mr. Sunil Dogra, Adv.
Mr. Vivek Vishnoi, Adv.
Mr. Abhishek Sharma, AOR

M/S. Khaitan & Co., AOR

Mr. Ramendra Mohan Patnaik, AOR

Mr. Himinder Lal, AOR

Mr. Mukesh Kumar Maroria, AOR

M/S. Karanjawala & Co., AOR

Mr. Mukul Kumar, AOR

Mr. Shibashish Misra, AOR

Mr. Balaji Srinivasan, AOR

Mr. Ashok Panigrahi, AOR

Mr. Naveen Kumar, AOR
Mr. Nitesh Bhandari, Adv.
Ms. Stuti Bisht, Adv.
Mr. Prabhat Kumar Rai, Adv.
Mr. Shourajeet Chakravarty, Adv.
Ms. Aprajita Bhardwaj, Adv.
Mr. Sankalp Suman, Adv.

Mr. Raj Kumar Mehta, AOR

Mr. Rameshwar Prasad Goyal, AOR

Mr. B. Krishna Prasad, AOR

Mr. Sunil Kumar Jain, AOR

Ms. Movita, AOR

Ms. Aishwarya Bhati, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Ms. Saudamini Sharma, Adv.
Ms. Chinmayee Chandra, Adv.
Mr. Tarkeshwar Nath, Adv.
Mr. Rajat Nair, Adv.
Ms. Suhasini Sen, Adv.

Mr. Dhananjaya Mishra, AOR

Mr. Shovan Mishra, AOR
Ms. Bipasa Tripathy, Adv.

Mr. Lakshmi Raman Singh, AOR
Mr. Preshit Vilas Surshe, AOR

Mr. Naveen Kumar, AOR
Mr. Nitesh Bhandari, Adv.
Ms. Stuti Bisht, Adv.
Mr. Prabhat Kumar Rai, Adv.
Mr. Shourajeet Chakravarty, Adv.
Ms. Aprajita Bhardwaj, Adv.
Mr. Sankalp Suman, Adv.

Mr. Arun Bhardwaj, Sr. Adv.
Mr. Hitendra Nath Rath, AOR
Ms. Gauraan, Adv.
Mr. Ronak Karanpuria, Adv.
Mr. Abhishek Sharma, Adv.
Mr. Anmol Amit Srivastav, Adv.
Mr. Lenin Rakj K, Adv.

Ms. Uttara Babbar, AOR

M/S. Aura & Co., AOR

Mr. Sandeep Devashish Das, AOR

Mr. Ashok Panigrahi, AOR
Ms. Geetanjali Das Krishnan, Adv.
Ms. Nikita Jyadevan, Adv.
Mr. Nabab Singh, Adv.

M/S. Khaitan & Co., AOR

Mr. Gaurav Khanna, AOR

Mr. Sibho Sankar Mishra, AOR

Mr. Shadan Farasat, AOR

Mr. Deepali Tukar Ram, Adv.
Mr. Hitesh Kumar Sharma, Adv.
Mr. S. K. Rajora, Adv.
Mr. Akhileshwar Jha, Adv.
Ms. Niharika Dewivedi, Adv.
Mr. Narendra Pal Sharma, Adv.
Mr. Amit Kumar Chawla, Adv.

Mr. Vikas Singh, Adv.
Ms. D. Kalia, Adv.
Mr. Aditya Kaul, Adv.

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

I. A. Nos.160451/2018 and 160455/2018

None appears for the applicant. However, in the interest of justice, list the matters on 17th March, 2023.

IA Nos.176881/2018, 176885/2018, 58179/2019, 108921/2019, IA No. 27655/2022 and I.A. No.54184/2022

Learned senior counsel appearing on behalf of the applicant in the interlocutory applications would submit that the Court need to pass order in I. A. No.54184/2022 which consolidates the prayers sought in other interlocutory applications. Hence, we deem it appropriate to set out the reliefs sought in I. A. No. 54184/2022, which are as follows:-

"a) Order the joint verification of the quantity and reanalysis of the chemical composition to ascertain the correct grade of the undisposed stock of the iron ore extracted from the Ingani Jharan, Iron Maganese Mines by the Applicant.

b) Reassess the penalty imposed on the basis of the report received after conducting joint verification of the quantity and reassessment of the chemical composition of the undisposed stock of the iron ore;

c) Allow sale of undisposed stock lying at the site;

d) Permit the Applicant to resume mining activities after payment of penalty amount without prejudice to the rights and contentions of the Applicant."

We heard the learned counsel appearing on behalf of the State besides the learned Amicus Curiae. We also heard Mr. Prashant Bhushan, learned counsel appearing on behalf of the petitioners.

It is not in dispute that the applicant stands visited with revised penalty of Rs.116,84,30828.43/-. The amount, in law should have been paid by 05.04.2018. Therefore, it is not in dispute that the applicant is liable to pay the said amount from 05.04.2018. Since it is not the case of the applicant that, any amount has been paid towards the same, interest on the due amount, would also accrue under the statutory Rules from 05.04.2018.

As far as the request for reassessment and for permission to sell the iron ore which has been mined (here we notice the stand of the learned Amicus Curiae that the quantity which has been mined cannot be said to be illegal), it is the stand of the State that for the purpose of joint inspection a notice was issued to the applicant. The case of the applicant on the other hand is such a notice was not received.

Here, we are faced with a dilemma. On the one hand, large amounts are due from the applicant to the State. The iron ore has been mined legally. Unless the iron ore is sold, apparently, the State would stand to loose if its dues are not diminished by way of

sale of the iron ore. The learned counsel for the State, no doubt, would submit if the direction is to the State to sell it, the learned counsel would need time to get instructions. It is pointed out that such exercise has not been done so far. It is her case that, if the prayer is for permission to the applicant to sell it, in view of the fact that the applicant did not cooperate in the matter of responding to the notice, she resists the prayer. But, at the same time, status quo cannot continue as it will not be conducive to the interest of the State also.

We notice the stand of the Mr. Prashant Bhushan, learned counsel for the petitioners that if over the iron ore mined vegetation has overgrown over the iron ore, fresh mining may have to be done. Learned counsel for the State would point that no fresh mining would be needed.

In such circumstances, we pass the following order.

A joint inspection which will involve the Mining Department of the Respondent State and the applicant shall be held. Such joint inspection shall be held for the purpose of determining the quantity of iron ore as also the quality (the grade of the iron ore). After joint inspection is done, the applicant is given a period of four months from the date of joint inspection to carry out the sale of the iron ore in question. The sale will undoubtedly be conducted under the watchful gaze and control of the Officers of the respondent-State.

The amount realized from the sale of the iron ore in question shall be adjusted against the amount of penalty which has been assessed by proceedings dated 05.04.2018.

We make it clear that the entire amount from the sale of the iron ore in question will be deposited with the Special Purpose Vehicle (SPV). The balance amount remaining due shall be paid within a period of four months from the date of sale.

We make it clear that the State, in the meantime may initiate proceedings and continue with the same for auctioning the right to mine from the mine in question in accordance with law.

As far as the prayer 'D' is concerned, it is dismissed as not pressed.

The interlocutory applications stand disposed of.

I.A. No.69256/2019, 69260/2019

Issue notice.

List the matter on 17th March, 2023.

Counter affidavit be filed, in the meantime.

I. A. No.42571/2023

Issue notice.

Mr. Prashant Bhushan, learned counsel, for the petitioners may also serve on the standing counsel for the Union of India.

Counter affidavit be filed, in the meantime.

List the matter on 17th March, 2023.

I.A. Nos.147147 & 147136/2018, I.A. No.19209/2121, I.A. Nos. 27088 & 30300/2022, I.A. Nos. 49052 and 49058/2022, I.A. No.78138/2022, I.A. No.106323/2022, 106308/2022, I.A. No.106304/2022 and 106336/2022, I.A. No.106292/2022 and 106334/2022, I.A. No.116550/2022

Issue notice.

Counter affidavit be filed, in the meantime.

List the matters on 17th March, 2023.

Diary No(s). 44077/2018

Delay condoned.

Issue notice.

List the matter on 17th March, 2023.

Counter affidavit be filed, in the meantime.

**(JAGDISH KUMAR)
COURT MASTER (SH)**

**(RENU KAPOOR)
ASSISTANT REGISTRAR**