

**(2003) 11 JH CK 0009**

**Jharkhand High Court**

**Case No:** Letters Patent Appeal No"s. 255 and 288 of 2001

Central Coalfields Ltd.

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

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**Date of Decision:** Nov. 29, 2003

**Acts Referred:**

- Bihar and Orissa Public Demands Recovery Act, 1914 - Section 9

**Citation:** (2004) 1 BLJR 94

**Hon'ble Judges:** R.K. Merathia, J; Gurusharan Sharma, J

**Bench:** Division Bench

**Advocate:** Anoop Kumar Mehta, for the Appellant; None, for the Respondent

**Final Decision:** Dismissed

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**Judgement**

@JUDGMENTTAG-ORDER

1. Two writ applications, namely, CWJC Nos. 391 and 392 of 1999(R) involving the common question were taken up together by the learned Single Judge and were disposed of by impugned order dated 27.2.2001. Hence, the appellant has filed two separate appeals. Both the appeals are, therefore, disposed of by common order.

2. The appellant M/s. Central Coalfields Limited filed common objection u/s 9 of the Bihar and Orissa Public Demand Recovery Act, 1914 (hereinafter to be referred to as "the Act") in certificate case No. 1 and 22 of 1998-99 pending before the Certificate Officer (Mines), concerned. Those certificate cases related to the demand and recovery of the amount of royalty as assessed on the shortage of coal and were registered at the instance of the District Mining Officer concerned.

3. In its objection, the appellant inter alia claimed that it being the Government Company has already paid the royalty on the despatch and/or extraction of coal and was not liable to pay any further royalty on the shortage of coal.

4. The appellant admitted that wrong returns were furnished and as such the certificate proceedings initiated on the basis of the alleged measurement were wholly illegal and without jurisdiction.
5. The Certificate Officer rejected the appellant's objection u/s 9.
6. Instead of filing statutory appeal and revision against the order of the Certificate Officer rejecting the objection u/s 9, the appellant preferred writ petitions in this Court, which were disposed of by the learned Single Judge with a liberty to the appellant to deposit 50 per cent of the demanded amount on the ratio of the interim order passed by the Apex Court in similar matter and if such deposit was made, the Certificate Officer was directed to consider the question of stay of the proceedings till final decision of the matter by the Apex Court.
7. Section 9 of the Mines and Minerals (Regulation & Development) Act, 1957, provided payment of royalty in respect of material/mineral extracted/consumed at the rates specified in the Schedule appended thereto. The returns/statement from time to time were required to be filed before the District Mining Officer for determination of the amount of royalty to be paid. If the amount of royalty was not paid, the District Mining Officer was authorized to issue certificates mentioning the amount of royalty payable.
8. In the present case amount of royalty was determined on the basis of the returns/statement filed by the appellant itself. Now it was being alleged that those returns/statement contained inflated figure of coal extracted as extraction to that extent was not made.
9. The demand of royalty on the shortage of coal and the step taken by the respondents for recovery thereof by the certificate proceedings, under the 1914 Act, at the instance of the appellant is subjudice before the Apex Court and in Special Leave to Appeal (Civil) No. 2354 of 1996 on 27.1.1997, while tagging the same with civil appeal Nos. 3010-24 of 1991, the Apex Court passed the following interim orders :--

"In case the petitioner herein deposits half of the amount due from them within eight weeks from this the 27th day of January, 1997 the proceedings for recovery of the remaining amount pending before the Court of Certificate Officer, Mining North Chhota Nagpur Circle, Hazaribagh in Certificate Case No. 52/91-92(R) shall remain stayed pending the hearing and final disposal by the Court of the aforesaid petition."
10. The appellant had filed CWJC Nos. 2616 and 2617 of 1997(R) in the Ranchi Bench of Patna High Court for the similar relief challenging the payment of royalty on the shortage of coal as well as the order rejecting the objection u/s 9 by the Certificate Officer and the determination of the amount of royalty payable, which were dismissed by the learned Single Judge. LPA Nos. 159 and 160 of 1998(R) were also

dismissed by the Division Bench SLP (Civil) No. 1297 of 1998 filed by the appellant against the aforesaid order passed in the Letters Patent Appeal is pending before the Apex Court, wherein the order of interim stay has been passed on 21.8.1998 in terms of the aforesaid SLP (Civil) No. 2354 of 1996.

11. We are of the view that since the aforesaid Civil Appeals and SLPs relating to similar matter are subjudice before the Apex Court, the final decision of the Apex Court therein shall cover the appellant's claim in the present appeals also. We find that subject to the final decision of the Apex Court, at present these appeals are squarely covered by the decision dated 25th June, 1998 of this Court in LPA Nos. 159 and 160 of 1998(R).

12. The impugned order passed by the learned Single Judge need not, therefore, be interfered with. These appeals are therefore, disposed of, accordingly with a direction that if the appellant so chooses, it may deposit half of the amount due from it which is subject matter of the aforesaid two certificate proceedings before the concerned Certificate Officer (Mines) and thereafter in terms of the order dated 27.1.1997 passed by the Apex Court in SLP (Civil) No. 2354 of 1996, the Certificate Officer (Mines) shall pass appropriate orders.