

(2013) 04 JH CK 0025

Jharkhand High Court

Case No: I.A. No. 505 of 2013 in Writ Petition (C) No. 4944 of 2011

M/s. Bharat Coking
Coal Limited

APPELLANT

Vs

State of Jharkhand
and Others

RESPONDENT

Date of Decision: April 14, 2013

Citation: (2013) 3 EFLT 758

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: A.K. Mehta, for the Appellant; A.K. Pandey, for the Respondent

Judgement

Aparesh Kumar Singh, J.

Heard learned Counsel for the parties. The instant Interlocutory Application has been preferred by the respondents Jharkhand State Pollution Control Board for modification in the interim order dated 25th August, 2011 by permitting the concerned respondents to take legal action u/s 19 of the Environment (Protection) Act, 1986 before the competent Court of law under different provisions of the Environment (Protection) Act. The petitioner had approached this Court against the direction of the respondents-Board for closure of the mines in question and order of status quo was granted on 25th August, 2011 after hearing the parties and on 29th November, 2011 the petitioner was allowed time to apprise the Court regarding concrete plan/project undertaken for compliance of the various provisions of environmental laws. The interim order dated 25th August, 2011 was continued. The writ petition was admitted for hearing on 18th January, 2012.

2. The respondents-Board has now filed the present I.A. seeking modification of the interim order dated 25th August, 2011, inter alia, stating that the petitioner is violating the circular dated 16.11.2010 and the letter of Government of India, Ministry of Environment and Forests dated 10th December, 2012 in the matter of environmental clearance to BCCL coal mines. Learned Counsel for the

respondents-Board vehemently submitted that the State Pollution Control Board is contemplating legal action for the violation already made earlier for non-compliance of the environmental laws and failure to obtain environmental clearance in respect of the mines, which are being operated by the BCCL.

3. The petitioner has filed their reply. It has been stated in their reply that there are 17 clusters of mines being operated by the petitioner-company out of which one cluster falls in the State of West Bengal. 17 Terms of Reference have been issued in favour of the petitioner by the Expert Appraisal Committee of the Ministry of Environment and Forests, Government of India. Out of 16 clusters falling in the State of Jharkhand, environmental clearance has already granted in respect of 9 such cluster being cluster Nos. 1, 2, 3, 4, 5, 7, 8, 10 and 16 vide letter dated 6th February/2013 of the Ministry of Environment and Forests, Govt. of India. One such cluster is virgin cluster which is not being operated till the environmental clearance certificate is granted by the competent authority. Out of remaining 6 cluster in respect of 3 being cluster Nos. 13, 14 and 9, a recommendation has been made by the Expert Appraisal Committee of MoEF for grant of environmental clearance but certain clarifications have been sought for and the petitioner expects that very soon environmental clearance in respect of the aforesaid 3 clusters should be granted. In respect of other remaining three clusters being cluster Nos. 6, 11 and 15, the same are pending before the Expert Appraisal Committee of MoEF which was going to hold its meeting on 25th March, 2013 and 8th April, 2013 in respect of cluster Nos. 11 and 15 respectively. In such circumstances, learned Counsel for the petitioner submits that considerable progress has been made in the matter of grant of environmental clearance. The Board of Directors of the petitioner-company has also resolved and communicated to the Ministry of Forests and Environment, its resolution that such violation of environmental clearance shall not be repeated in future. It is, therefore, submitted that at the moment the interim order granting status quo in favour of the petitioner should not be modified as it is very likely that in near future the environmental clearance should be granted in favour of other remaining clusters of the petitioner-company.

4. I have heard learned Counsel for the parties at length. From the facts, which have been narrated hereinabove, it appears that the petitioner has made considerable progress in the matter of grant of environmental clearance in respect of 16 such clusters which are in existence in the State of Jharkhand. In respect of remaining 6 clusters, the submission of the petitioner is that they are at advanced stage and appropriate decision is likely to be taken in near future by the competent authority of the Ministry of Environment and Forests for grant of environmental clearance. 9 clusters have already granted environmental clearance.

5. In such circumstances, at the moment, this Court does not consider it proper to modify the interim order. However, it is made clear that the petitioner is required to ensure all steps, to obtain environmental clearance at the earliest and preferably

within a period of three months. If the environmental clearance of the remaining clusters are not obtained within the next three months by the petitioner, the respondent-Board would be at liberty to bring it to the notice of this Court for proper modification of the interim order. This interlocutory application stands disposed of.