courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 31/10/2025

AIR 2002 Jhar 159

Jharkhand High Court

Case No: CWJC No. 1370 of 2000

DLF Power Limited	APPELLANT
Vs	
Union of India (UOI) and Others	RESPONDENT

Date of Decision: Aug. 6, 2002

Acts Referred:
Mines Act, 1952 â€" Section 2

Citation: AIR 2002 Jhar 159

Hon'ble Judges: M.Y. Eqbal, J

Bench: Single Bench

Advocate: M.M. Banerjee, for the Appellant; M.M. Prasad, for the Respondent

Final Decision: Allowed

Judgement

M.Y. Eqbal, J.
The petitioner is aggrieved by the order as contained in letter dated 13.7.1999 issued under the signature of respondent

No. 2, Director General of Mines Safety, Dhanbad whereby the petitioner has been intimated that the power plant installed by it for the supply of

electricity to the mines of Central Coalfield Limited and Bharat Coking Coal Limited (in short ""CCL & BCCL""), does not come under the

definition of mine and further for a declaration that the power plant installed by the petitioner for supply of electricity exclusively to the mines

belonging to the Government Companies comes within the definition of the term "mine".

2. The petitioner, M/s. DLF Power Ltd. entered into an agreement with Coal India Limited for installation of a power plant on the land leased to

them by M/s. CCL & BCCL being the subsidiaries of CIL. Pursuant to that agreement the petitioner constructed a power plant (safety power

station) for supplying electrical power exclusively to the mines of CCL and BCCL. The petitioner, thereafter, sent a letter dated 4.1.1999 to the

Chief Labour Commissioner, Ministry of Labour, Government of India intimating him that his power station will come within the definition of mine.

On receipt of the aforesaid letter the Regional Labour Commissioner sought clarification from the Director General of Mines Safety (in short

DGMS"") vide letter dated 11.5.1998 as to whether the power plant established in the mining area of M/s. BCCL & CCL are covered under the

Mines Act, 1952. In reply to that letter the DGMS vide his letter dated 13.7.1999 informed the Regional Labour Commissioner that the power

station established by the petitioner cannot be considered as mine as they are not covered under the Mines Act, 1952.

3. Mr. Banerjee, learned counsel appearing on behalf of the petitioner assailed the impugned order as being illegal and contrary to the definition of

"mine" as defined in Section 2(j) of the Mines Act, 1952. According to the learned counsel admittedly the power station was established within the

mining area belonging to CCL & BCCL and, therefore, according to the definition of mine the said power station shall also be included within the

definition of "mine".

4. Mr. M.M. Prasad, learned counsel appearing on behalf of the Central Government, on the other hand, submitted that the question whether the

power station established by the petitioner comes within the definition of "mines" is to be decided only by the Central Government in terms of

provisions of Section 82 of the said Act. Learned counsel, therefore, submits that this Court cannot declare that the said power station is a mine.

5. Section 2(j) of the Mines Act, 1952 defines the term "mine" which reads as under :--

"Mine" means any excavation where any operation for the purposes of searching for or obtaining minerals has been or is being carried on and

includes,--

** ** **

(viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purpose

connected with that mine or a number of mines under the same management.

(ix) all power stations, transformers sub-stations, converter stations, rectifier stations and accumulator, storage stations for supplying electricity

solely or mainly for the purpose of working the mine or a number of mines under the same management.

(x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any

operations in connection with such sand, refuse or other material is being carried on, being premises exclusively occupied by the power of the

mine.

(xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the getting dressing of preparation for sale of minerals

or of coke is being carried on.

6. From perusal of the aforesaid provisions it appears that the expanded definition of the term "mine" includes all power stations, transformers sub-

stations, converter stations, rectifier stations and accumulator etc. solely and mainly for supplying electricity for the purposes of working the mine or

a number of mines under the same management.

7. The impugned letter dated 13.7.1999 issued by the DGMS is worth to be reproduced hereinbelow :--

Bharat Sarkar/Government of India Shram Mantralaya/Ministry of Labour Khan Suraksha Mahanideshalaya Directorate-General of Mines Safety

** ** **

No. 37 (42) 99-Civil/3660 Dhanbad, dated the 13th July, 1999.

From

The Director-General of Mines Safety, Dhanbad

To

The Regional Labour Commissioner (Central), Dhanbad

*Dr, R.S. Tiwari

by name.

Sub : Clarification regarding establishment of DLF Industries Ltd. working at Rajrappa Project & Giddi Washery of M/s. CCL and Madhuband

Washery of M/s. BCCL.

Sir,

Please refer to your letter No. RLC-PA/98, dated 5/10th May, 1998 on the subject.

The matter has been considered carefully in this Directorate. The provisions of Section 2(J)(IX) of the Mines Act, 1952 regarding Power Station

cannot be considered in isolation. It has to be considered along with the definition of "Mine" in Section 2(J) of Mines Act, 1952 which is as follows

:--

Mines means any excavation where any operation for the purpose of searching for or obtaining mineral has been or is being earned on.

Thus exclusively power stations can be considered as part of the Mines and not the "mine" by itself.

In view of the above establishment of DLF Industries Ltd. referred to in your letter cannot be considered as "Mine" and are not covered under the

Mines Act, 1952.

8. From reading of the aforesaid letter it appears that DGMS has accepted that the power station of the petitioner can be considered as part of

mine and not mine. The word "part of mine" has not been defined anywhere in the Mines Act, 1952. In the definition of the term mine "it has been

clearly mentioned that all power stations establishment in the precincts of the mine, is a mine". It is not the case of the respondents that by virtue of

agreement the CIL has leased out the land beyond the mining area for the purpose of establishment"" of power station. It has been categorically

stated in paragraphs 8 and 9 of the writ application that the power station is situated within the premises of the mines of the collieries. This factual

aspect has not been disputed by the respondents. Prima facie therefore it appears that the DGMS is not correct in law in holding in its clarification

letter that the power station of the petitioner cannot be a mine rather it may be considered as a part of mine. In my opinion, therefore, the

clarification given by the DGMS in the impugned letter is against the definition of the term mine as contained in Section 2(j) of the said Act and it is

also not in the teeth of the judgment of the Supreme Court reported in Bharat Coking Coal Ltd. Vs. Madanlal Agrawal, . The impugned letter of

clarification therefore cannot be sustained in law.

9. However if the respondents dispute the installation or construction of the power station beyond the precincts of mine then liberty is given to the

respondents to get the matter decided by the Central Government in terms of Section 82 of the said Act.

10. Having regard to the facts of the case and the law discussed hereinabove, this writ application is allowed and the impugned letter of clarification

dated 13.7.1999 as contained in Annexure 5 is quashed.