

ITEM NO.3

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(s).114/2014

COMMON CAUSE

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for directions, impleadment and intervention and modification of Court's order dated 16.05.2014 and permission to file additional documents and extension of time and with office report)

WITH

W.P.(C) No.194/2014

(With appln.(s) for permission to file additional documents)

Date : 02/03/2016 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE JAGDISH SINGH KHEHAR
HON'BLE MR. JUSTICE C. NAGAPPAN

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

Ms.Aparajita Singh, Adv.

Mr.Siddhartha Chowdhury, Adv.

For Petitioner(s) Mr. Prashant Bhushan, Adv.
Mr. Pranav Sachdeva, Adv.

For Respondent(s) Mr. K.K. Venugopal, Sr. Adv.
Mr. Sunil Dogra, Adv.
Mr. Vivek Vishnoi, Adv.
Mr. Abhishek Sharma, Adv.

Mr. P. Chidambaram, Sr. Adv.
Dr. Abhishek Manu Singhvi, Sr. Adv.
Ms. Vanita Bhargava, Adv.
Mr. Ajay Bhargava, adv.
Mr. Jeevan B. Panda, Adv.
Ms. Kudrat Dev, Adv.
for M/s Khaintan & Co.

Mr. Dushyant Dave, Sr. Adv.
Mr. Manas Ranjan Mohapatra, Sr. Adv.
Mr. Ramesh Singh, Adv.

Mr. Shiv Mangal Sharma, Adv.
Mr. Nishit Agrawal, Adv.
Mr. Lalitendra Mohapatra, Adv.
for M/s Aura & Co.

For UOI

Ms. V. Mohana, Sr. Adv.
Mr. Vibhu Shanker Mishra, Adv.
Ms. Meenakshi Grover, Adv.
Mr. Neeraj Kr. Sharma, Adv.
Ms. Gunwant Dara, Adv.
for Mr. D.S.Mahra, AOR

For SAIL

Mr. Maninder Singh, ASG
Mr. Sunil Kr. Jain, AOR
Mr. Pawanshree Agrawal, Adv.
Mr. Kaushik Chowdhury, Adv.
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Mr. Ashok Kumar Panda, Sr. Adv.
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Mr. Tejaswi Kumar Pradhan, AOR

Mr. T.R. Andhyarujina, Sr. Adv.
Mr. Raj Kumar Mehta, Adv.
Mr. Abhishek Upadhyay, Adv.
Ms. Himanshi Andley, Adv.

State of Orissa

Mrs. Kirti Renu Mishra, Adv.
Ms. Apurva Upmanyu, Adv.

Mr. Himinder Lal, AOR

Mr. Satyendra Kumar, AOR

Mr. Balaji Srinivasan, Adv.

Mr. Ashok K. Parija, Sr. Adv.
Mr. Gaurav Kejriwal, Adv.
Mr. Keshav Mohan, Adv.
Mr. Sujit Keshri, Adv.

Mr. Anupam Lal Das, AOR

Mr. Tayenjam Momo Singh, AOR

Mr. E. C. Agrawala, AOR

Ms. Ruchi Kohli, AOR

M/s. Karanjawala & Co

Ms. Kanika Singh, Adv.
Mr. Mukul Kumar, AOR

	Mr. Dushyant Dave, Sr. Adv. Mr. Naveen Kumar, Adv. Mr. Arnav Dash, Adv.
in IA 4 & 62	Mr. Nidhesh Gupta, Sr. Adv. Mr. Naveen Kumar, Adv. Mr. Arnav Dash, Adv.
IA 40,61,41 & 42	Mr. Nidhesh Gupta, Sr. Adv. Mr. Arun Khatparlya, Sr. Adv. Mr. Naveen Kumar, Adv. Mr. Arnav Dash, Adv.
IA 58 & 69	Mr. Krishnan Venugopal, Sr. Adv. Mr. Naveen Kumar, Adv. Mr. Arnav Dash, Adv.
	Mr. Ashok K. Parija, Sr. Adv. Mr. Dhananjaya Mishra, Adv. Mr. Anand Varma, Adv. Mr. Ramendra Mohan Patnaik, AOR
	Ms. Sangeeta Mandal, Adv. Mr. Arijit Mazumdar, Adv. Mr. Shantanu Bansal, Adv. for M/s Fox Mandal & Co.
	Mr. K.V. Vishwanathan, Sr. Adv. Mr. Rajat Jariwal, Adv. Mr. Aakash Bajaj, Adv. Mr. Sanjeev K. Kapoor, Adv.

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

I.A.No.65 of 2015

The applicant - Steel Authority of India Limited, has approached this Court, for modification of an interim order passed by this Court in terms of the order dated 16.05.2014 (Common Cause vs. Union of India and others). Paragraph 4 of order dated 16.05.2014 is extracted hereunder:

"4. We have considered the report dated 25-4-2014 of CEC, and the submissions made by the learned counsel appearing for different parties, and we find that 102 mining leases do not have requisite

environmental clearances, approvals under the Forest (Conservation) Act, 1980, approved mining plan and/or consent to operate. A list of these 102 mining leases is annexed to the report of CEC as Annexure R-2. CEC has, however, stated in the report that mining operations in these 102 mining leases have been suspended and these 102 mining leases have been classified as non-working leases. We direct that mining operations in these 102 mining leases listed in Annexure R-2 of the report of CEC shall remain suspended, but it will be open to such lessees to move the authorities concerned for environmental clearances, approval under the Forest (Conservation) Act, 1980, approval of mining plan or consent to operate and as and when the mining lessees are able to obtain all the clearances/approval/consent, they may move this Court for modification of this interim order in relation to their cases."

Mr.A.D.N.Rao, learned counsel, who has appeared as an amicus representing the Central Empowered Committee, has invited our attention to the Compilation Statement-I wherein particulars of the Steel Authority of India Limited are depicted at Serial No.3. It was sought to be clarified by the learned amicus, that the instant application, filed by the Steel Authority of India Limited is only with reference to Mining Lease No.162. It was submitted, that the Steel Authority of India Limited, has obtained all clearances in terms of the requirements indicated in paragraph 4(extracted above), except stage-II of forest clearance, and to that extent, there should be no difficulty in modifying the interim order in relation to the applicant.

Insofar as the subsisting tenure of the Mining Lease No.162 is concerned, the same has to be examined in consonance with Section 8A of the Mines and Minerals (Development and Regulation) Act, 1957. It is not a matter of dispute, that Section 8A was inserted into the provisions of the Mines and Minerals (Development

and Regulation) Act, 1957 with effect from 12.01.2015. Statement-1 depicts, that the approval for diversion of the forest land over which Mining Lease No.162 exists, is valid up to 09.02.2016. And therefore, the claim of the applicant is with reference to a subsisting mining lease. And therefore, it is not necessary for the present applicant to demonstrate any further as to whether the prayer in reference to Mining Lease No.162, is with reference to an existing/subsisting lease in favour of the applicant.

The next question which needs a conscious determination is, whether the applicant has obtained all approvals, sanctions and consent etc. in terms of the provisions of the Forest Act and the Mines and Minerals (Development and Regulation) Act, 1957, as also, the provisions of the different Environment Acts. We are informed by the learned amicus, that having perused the documents appended to I.A.No.65 of 2015 (filed by the Steel Authority of India Limited) there is no doubt that all clearances/approvals/ consents, except stage-II of forest clearance, as required at the present juncture, have been obtained by the applicant.

It is, however, sought to be pointed out, that the applicant will be in a position to obtain all further approval(s) after compliance of the necessary Stage-I conditions, if the interim order, expressed in paragraph 4 of the order dated 16.05.2014, is lifted. In the instant view of the matter, we hereby direct, that the suspension as mentioned in paragraph 4 of the order passed by this Court on 16.05.2014 (extracted above) in respect of Mining Lease No.162, in the State of Orissa, shall be treated as having been lifted, for the limited purpose of obtaining

Stage-II clearance. Needless to mention, that after the Stage-II clearance is granted to the Steel Authority of India Limited, the said clearance shall be placed before this Court, within the framework of I.A.No.65 of 2015, for further orders, to determine whether the Steel Authority of India Limited, can be permitted to operationalise Mining Lease No.162, in the State of Orissa.

It however necessary to clarify, that the eventual lifting of the suspension of the order passed by this Court on 16.05.2014, will be subject to the condition, that there is no pending liability, with reference to any violation. To be clear on the instant aspect of the matter, the CEC shall file an affidavit indicating the clear position on this aspect of the matter.

List I.A.Nos.65 and 72 of 2015 for consideration on 03.03.2016.

At the request of Mr.A.D.N.Rao, learned amicus, list all other remaining applications for consideration on 16.03.2016. Mr.Mukul Rohatgi, learned Attorney General, is requested to assist the Court on the interpretation of Section 8A, referred to above, on 16.03.2016.

(SATISH KUMAR YADAV)
AR-CUM-PS

(RENUKA SADANA)
COURT MASTER