IN THE HIGH COURT OF JHARKHAND AT RANCHI

[Civil Writ Jurisdiction]

W.P.(C) No. 1126 of 2020

JSW Steel Ltd. & Anr. Petition

.... Petitioners

Union of India & Ors. Respondents

WITH

W.P.(C) No. 1127 of 2020

JSW Steel Ltd. & Anr. Petitioners

Versus

Union of India & Ors. Respondents

WITH

W.P.(C) No. 1128 of 2020

JSW Steel Ltd. & Anr. Petitioners

Versus

Union of India & Ors. Respondents

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CORAM :HON'BLE MR. JUSTICE KAILASH PRASAD DEO

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For the Petitioners : Mr. Indrajit Sinha, Advocate

Mr. Rohit Roy, Advocate

Mr. Tarun Kumar Mahato, Advocate

For the respondents-State : Mr. Deepankar, AC to AG. For the respondents- UOI : Mrs. Nitu Sinha, Advocate

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05/19.07.2022.

Heard, learned counsel for the parties.

Learned counsel for the petitioners, Mr. Indrajit Sinha has submitted, that inadvertently the Principal Secretary, Mines as well as Director, Mines, Government of Jharkhand have not been impleaded as party though the State of Jharkhand through Chief Secretary has been made party as respondent no.4 in these writ petitions, as such, he has prayed that both may be impleaded as respondent nos.8 and 9 to the writ petitions.

Learned counsel for the State and learned counsel for the Union of India have no objection.

Considering the same, petitioners are permitted to implead the Principal Secretary, Mines as well as Director, Mines, Government of Jharkhand as respondent nos.8 and 9 in these writ petitions.

Petitioners are directed to implead the party within two weeks.

Learned counsel for the petitioners has submitted, that notice has been issued by the Government of India, Ministry of Coal from office of Nominated Authority on 19.02.1918 asking the petitioner to file show-cause within 15 days from the date of receipt of show-cause as to why action towards appropriation of 5% of Bank Guarantee constituting Performance Security as per Clause 6.3 and 10.3 of the CMDPA (Coal

Mine Development and Production Agreement), shall not be taken against petitioner- M/s JSW Steel Limited.

Learned counsel for the petitioners has further submitted, that before invoking the provisions under Clause 6.3 and 10.3 of the CMDPA as reflected in the show-cause, the respondent-authorities must have examined, the date of vesting of the order, which has been issued on 22.04.2015 and as per the schedule-E (the "Efficiency Parameter") 24 months time is fixed for grant of Mining Lease which should have been done till 22.04.2017, but it is because of the non-compliance of the provisions by the State of Jharkhand, such agreement has not been executed and that leads to non-compliance of efficiency parameter, as indicated in the agreement.

Learned counsel for the petitioners has further submitted that before invoking the provisions under Clause 6.3 with regard to manner of appropriation of the performance security, the respondent-authorities have to examine even the appropriation of the performance security, which has been discussed at para 6.2 of the CMDPA, but the same has not been done, as such, it seems that the federal government, the Union of India is not asking the State to comply the same.

Learned counsel for the petitioners has further submitted, that the Union Government has repeatedly sent reminder to the State Government to do it, but the same has not been complied with and even then, the Union Government has invoked the power under Clause 10.3 of CMDPA to issue show-cause to the petitioners, which is not sustainable in the eyes of law.

Learned counsel for the petitioners has further submitted, that 17th meeting of the scrutiny committee held on 02.03.2022 and 03.02.2022 has considered and tried to look into the matter and 15 days time has been granted to the State of Jharkhand, but more than three months have lapsed, even then, the State of Jharkhand is not looking into the matter which ultimately caused a serious prejudice to the petitioners because of such show-cause by the Union of India, as show-cause have been issued with regard to 5% proportional deduction of the Bank guarantee in all three cases, in view of the show-cause.

Learned counsel for the respondents -UOI, Mrs. Nitu Sinha has submitted, that whatever the Union of India has done the same has been done under the provisions of Clause 10.3 CMDPA, which states that any

non-compliance with the Efficiency Parameters would result in appropriation of the Performance Security in the manner stipulated in Clause 6 (PERFORMANCE SECURITY) and in case, where such non-compliance exceeds for more than five instances, such non-compliance may also result in termination of this Agreement, as provided in Clause 24 (EFFECTIVE DATE, TERM AND TERMINATION).

Learned counsel for the respondents-State, Mr. Deepankar, AC to learned Advocate General has submitted, that he accepts the notice on behalf of the Principal Secretary, Mines as well as the Director, Mines, Government of Jharkhand newly added respondent nos.8 and 9 to the writ petitions and has prayed that matter may be listed on 03.08.2022, enabling learned counsel for the State to file response.

Put up these cases on 03.08.2022 under the same heading, enabling learned counsel for the State to file response, failing which this Court shall pass necessary order against the State of Jharkhand.

(Kailash Prasad Deo, J.)