

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(C) No. 3238 of 2018**

Electrosteel Steels Limited, a company incorporated under the Companies Act, 1956, Shiyaljori, Jogidih, Bangaria, P.O. & P.S. Chandankeyari, District – Bokaro, through its Authorized Signatory, Sauvick Mazumdar, son of Late B.N. Mazumdar, aged about 46 years, resident of Flat No.B 262, Landscape Pinto Park, Campal, P.O. Panaji, P.S. Panaji, District North Goa, Goa (Union Territory) ... .. **Petitioner**

**Versus**

1. The Secretary, Office of Lokayukta Jharkhand, Ranchi, having its office Near Karam Toli Chowk, Booty Road, P.O. G.P.O., P.S. Morabadi, District Ranchi
2. Ajay Dubey, son of Rajendra Dubey, resident of CD-488, Sector – 2, H.E.C., Dhurwa, P.O. Dhurwa, P.S. Dhurwa, District Ranchi 834004
3. State of Jharkhand through Chief Secretary, Dhurwa, P.O. & P.S. – Dhurwa, District Ranchi
4. Jharkhand State Pollution Control Board through its Member Secretary, HEC Dhurwa, P.O. & P.S. Dhurwa, District Ranchi.

... .. **Respondents**

**With**

**W.P.(C) No. 4430 of 2017**

Electrosteel Steels Limited, a company incorporated under the Companies Act, 1956, Shiyaljori, Jogidih, Bangaria, P.O. & P.S. Chandankeyari, District – Bokaro, through its Dy. General Manager, Shrish Kumar, son of Shri Bankey Bihari Kejriwal, resident of 10, Lohanchal, P.O. & P.S. Bokaro Steel City District Bokaro ... .. **Petitioner**

**Versus**

1. Union of India through Secretary Ministry of Environment Forest & Climate Change Government of India New Delhi, P.O. & P.S. New Delhi, New Delhi NCT.
2. Scientist 'D' Ministry of Environment Forest & Climate Change Government of India, Regional Office (Eastern central Zone), Banglow No, A-2, Shyamli Colony, P.O. & P.S. Shyamli, District Ranchi
3. State of Jharkhand through Deputy Commissioner, Bokaro, P.O. Bokaro, P.S. Bokaro, District Bokaro.
4. The Secretary, Office of Lokayukta, Jharkhand Lokayukta, Government of Jharkhand, Ranchi, P.O. G.P.O., P.S. Sadar, District Ranchi ... .. **Respondents**

---

**CORAM :HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY**

---

For the Petitioner	: Mr. Indrajit Sinha, Advocate
	: Mr. Bibhash Sinha, Advocate
For the Respondents	: Mr. Abhay Kr. Mishra, Advocate

	: Mr. Rajesh Kumar, Advocate
	: Mr. Anshuman Mishra, Advocate
For the State	: Mr. Rahul Saboo, GP II
	: Mr. Abhinay Kumar, AC to GA I
	: Mr. Rahul Saboo, GP II
	: Mr. Abhilash Kumar, AC to GP II
For the UOI	: Mr. Ravi Prakash, CGC

---

**Lastly heard on 02.07.2024**

**28/30.08.2024**

W.P.(C) No.3238 of 2018 has been filed for the following reliefs:

*“(i)An appropriate writ, order or direction commanding upon the respondent no.1 to certify and transmit records of Case No.01/Lok(Forest)/03/2014 including order dated 22.12.2017 (Annexure-12) passed by Learned Lokayukta, as despite application dated 11.06.2018 till date certified copy of order has not made available to the petitioner and upon receipt of the records of the case, quash the order dated 22.12.2017.*

*ii. An appropriate writ, order or direction for quashing of order dated 22.12.2017 passed by Learned Lokayukta in Case No. 01/Lok(Forest)/03/2014, whereby and whereunder in sheer violation of principles of natural justice without affording any opportunity of hearing to the petitioner in the said order adverse observation(s) / sweeping allegation(s) have been recorded against the petitioner.*

*And / Or*

*iii. Any other appropriate writ(s), order(s) or direction(s) as may be may be deemed fit and proper for doing conscionable justice to the petitioner.”*

2. W.P.(C) No.4430 of 2017 has been filed for the following relief:

*“i. An appropriate writ, order or direction for quashing of letter dated 12.05.2017 issued by Deputy commissioner, Bokaro, whereby and whereunder in purported compliance of order dated 09.05.2017 the petitioner is directed to submit its point wise clarification;*

*ii. An appropriate writ, order or direction for quashing of letter dated 26.07.2017 issued by respondent no.2, whereby and whereunder in purported compliance of order dated 20.07.2017 passed by Learned Lokayukta, a team consisting Shri Rajeev Ranjan (Scientist 'D') and Shri Vasant Kiran Babu, IFS (Deputy Conservator of Forest) is constituted which will visit the premises of the Petitioner Company and it is further directed that they should be provided with documents and information as sought by them.*

*iii. For a further writ / order or direction commanding upon the Respondents to forbear them acting pursuant to or from giving effect their letters dated 12.05.2017 and 26.07.2017 as the same are wholly without jurisdiction;*

*iv. For issuance of appropriate writ / order / direction commanding upon the respondent no.4 to certify and transmit records of purported proceeding / enquiry relating to the petitioner and its plant (case number or details of which is not known to the petitioner) and upon receipt of records to quash the same.*

*And / Or*

*v. Any other appropriate writ(s), order(s) or direction(s) as may be may be deemed fit and proper for doing conscionable justice to the petitioner.”*

**W.P.(C) No. 3238 of 2018**

3. Learned counsel for the petitioner has submitted that the petitioner was never issued any notice in the proceedings before the learned Lokayukta and accordingly, no opportunity of hearing was ever given to the petitioner. He submits that he has no grievance with regard to any findings which has been recorded in the impugned order qua the erring officials/public servants but the petitioner is only aggrieved by the findings and observations made in the impugned order against the petitioner which have been made at the back of the petitioner.

4. Learned counsel submits that there are many pending proceedings in which the petitioner is participating as a plaintiff/petitioner or as a defendant/ respondent. He submits that the petitioner would be satisfied if an appropriate observation is made by this Court that the findings or observations in the impugned order will not prejudice the petitioner while placing their case before the appropriate authorities /Courts / Tribunals in the pending proceeding. He has also placed the entire impugned order and has highlighted various findings /observations made by the learned Lokayukta in the impugned order.

5. Learned counsel for the petitioner has relied upon the judgment passed by the Hon’ble Delhi High Court reported in **2003 (69) DRJ 229 Werm (India) Ltd. & Ors. Vs. The Lokayukta & Ors.** and has referred to paragraph no. – 16 thereof and has submitted that similar relief may be grant to the petitioner in this case.

6. Learned counsel appearing on behalf of the office of learned Lokayukta has referred to the prayers made in the writ petition and has submitted that prayer no. 1 is not maintainable as the impugned order dated 22.12.2017 has already been placed on record and, therefore, the prayer is contradictory to the records of this case. During the course of the argument, it is not in dispute that the order dated 22.12.2017 passed by the learned Lokayukta is at Annexure – 12 of the writ

petition. So far as prayer no. 2 is concerned, learned counsel has submitted that the said prayer is not maintainable in view of the fact that the petitioner is neither a party before the learned Lokayukta, nor any direction has been passed against the petitioner.

7. Further, learned counsel has relied upon a judgment passed by the Hon'ble Supreme Court in *Civil Appeal No. 9106 of 2012 M/S. Rajasthan ART Emporium vs. Kuwait Airways and Anr.* reported in *(2024) 2 SCC 570* and has referred to paragraph no. 24 of the said judgment to submit that the Hon'ble Supreme Court has observed that it is a trite law that a party is not entitled to seek relief which he has not prayed for.

8. Learned counsel submits that the findings of the learned Lokayukta which have been arrived at in the impugned order, is based on the reports which were filed before the learned Lokayukta and essentially the conduct of the concerned officers has been scrutinized by the learned Lokayukta. He has further submitted that the observations in connection with the petitioner, were only incidental in order to arrive at a conclusion with regard to the conduct of the concerned officers.

9. Learned counsel submits that the officer against whom the learned Lokayukta has passed the impugned order i.e., Mahendra Mahto, has also filed a separate writ petition before this Court which is pending and if the impugned order is set aside, then the said writ petition will become infructuous.

10. Learned counsel appearing for the private respondent, who was the complainant before the learned Lokayukta has submitted that the impugned judgment of the learned Lokayukta is nothing but a report and the same has no bearing on any proceedings by or against the petitioner. The petitioner is bound to be dealt with by the authorities in accordance with law and not by the impugned order. He further submits that to the best of his knowledge the impugned order passed by the learned Lokayukta has never been used against the petitioner.

11. Learned counsel for the private respondent has referred to the order dated 03<sup>rd</sup> August 2017 passed in W.P.(C). No. 4430 of 2017

(Annexure – 9) to submit that there was a direction issued to the petitioner to co-operate in the inspection which was to be done by the regional team of MOFFCC in terms of the letter dated 26.07.2017. W.P.(C). No. 4430 of 2017 is the connected writ petition also listed today.

**12.** Learned counsel has referred to the counter affidavit dated 26.09.2018 filed by the private respondent and has submitted that inspite of having full knowledge that the proceeding was pending before the learned Lokayukta, the petitioner neither filed any intervention nor took any steps to participate in the proceedings and, therefore, the impugned order cannot be said to have been passed in violation of the principals of natural justice.

**13.** Learned counsel has referred to Section 12 of the Jharkhand Lokayukta Act, 2001 to submit that the impugned order is termed as a report under the said provision and the direction in terms of Section 12 thereof is given with regard to consequential action on the basis of the report.

**14.** Learned counsel has referred to the judgment passed by the Hon'ble Supreme Court reported in *(2015) 8 SCC 117 (Rang Nath Mishra -vs- State of Uttar Pradesh & Others)* and has submitted that the procedure to be followed by learned Lokayukta is left to his discretion and in a case where the report of learned Lokayukta was submitted without affording any opportunity of personal hearing to the appellant of the said case, the plea claiming personal hearing was rejected vide Para- 20 of the judgement which is quoted as under:-

*“20. While it is correct that the Report of the Lokayukta was submitted without affording any opportunity of personal hearing to the appellant and the request for time for submission of the documents made by the appellant on 29-9-2011 was refused by the Lokayukta, the said facts cannot constitute a good and sufficient basis for this Court to find fault with the conduct of the proceedings by the Lokayukta, U.P. in view of the provisions of Section 10(3) of the Act which, as already noticed, leaves to the Lokayukta the discretion to adopt such procedure as may be considered appropriate in the given facts of the case. No prejudice also has been caused to the appellant who had taken part in the proceedings at every stage. The refusal to grant*

*further time to the appellant, an issue over which some grievance has been raised, is a matter of discretion vested in the Lokayukta and any decision thereon either way cannot be a legitimate basis for interference.”*

**15.** Learned counsel submits that the provision of Section 10(3) of the Uttar Pradesh Lokayukta and Up-Lokayukta Act, 1975 which was the subject matter of consideration before the Hon’ble Supreme Court is *pari materia* to Section – 10(3) of the Jharkhand Lokayukta.

**16.** Learned counsel for the private respondent has submitted that till date the petitioner has not been able to obtain environmental clearance and the matter is pending before the appropriate authority and the petitioners are running their industry. However, it is not in dispute that an order has been passed by the Hon’ble Supreme Court reported in **(2023) 6 SCC 615 (Electrosteel Steels Limited -vs- Union of India & Others)** in the case of the present petitioner wherein a direction was issued for taking appropriate decision on the basis of revised environmental clearance in accordance with law within three months and pending such decision, the operation of the Steel Plant was directed not to be interfered with.

**17.** In response, the learned counsel for the petitioner has submitted that the petitioner has challenged the order passed by the learned Lokayukta on the ground of violation of principles of natural justice and if the arguments of the petitioner are accepted, the same would amount to molding the relief within the contours of the relief as prayed for in this writ petition. He has relied upon the judgment passed by the Hon’ble Supreme Court reported in **AIR 1966 SC 81 (Dwarka Nath v. ITO), Para- 4**, which has been passed in the context of Article 226 of the Constitution of India. Learned counsel has also submitted that essentially the office of learned Lokayukta has no lis in the matter and they were made party only for the purposes of production of records and no more.

**18.** Learned counsel while referring to the judgment reported in **(2015) 8 SCC 117 (supra)** which has been relied upon by the private respondent has submitted that in the said case, the concerned appellant was a public servant who was already participating in the



proceeding and he was aggrieved by denial of opportunity of personal hearing and therefore, the said judgment has no bearing in this case.

**W.P.(C) No. 4430 of 2017**

19. With respect to W.P.(C). No. 4430 of 2017, the learned counsel for the parties have jointly submitted that the said writ petition was filed challenging certain notices issued to the petitioner by the Deputy Commissioner, Bokaro and Ministry of Environment, Forest and Climate Change pursuant to orders passed by the learned Lokayukta.

20. Learned counsel submits that pursuant to the interim order passed by this Court, the petitioner co-operated in the enquiry and the enquiry report was submitted before the learned Lokayukta and final order has already been passed but the petitioner was never a party before the learned Lokayukta. They submit that final order having been passed, W.P.(C). No. 4430 of 2017 has become infructuous.

21. At this stage, the learned counsels have jointly submitted that with respect to the matter of Environment Clearance to the unit of the petitioner much water has flown during the pendency of this case.

**Findings of this Court in W.P.(C) No. 4430 of 2017**

22. It is not in dispute that the letter impugned in W.P.(C) No.4430 of 2017 dated 12.05.2017 was issued by the Deputy Commissioner, Bokaro which in turn was a sequel to the various directions issued by the learned Lokayukta, Jharkhand. Along with the said letter, a copy of the order of learned Lokayukta dated 29.05.2017 was also forwarded. Pursuant to the said letter dated 12.05.2017, the petitioner duly responded vide letter dated 13.05.2017 and 02.06.2017.

23. In the writ petition, the petitioner has also challenged the letter dated 26.07.2017 issued by respondent no.2 whereby in purported compliance of order dated 20.07.2017 passed by learned Lokayukta, a team was constituted to visit the premises of the petitioner and the

petitioner was directed to provide documents and information as sought by them.

**24.** The records of the case reveal that in the writ petition an order dated 03.08.2017 was passed wherein this Court directed that the petitioner shall cooperate in the inspection to be done by the regional team of respondent no.2 in terms of the aforesaid letter dated 26.07.2017 issued by the respondent no.2. It further appears from the arguments advanced on behalf of the learned counsels for the parties that the impugned action and orders were passed pursuant to orders passed by learned Lokayukta which culminated in final order passed by learned Lokayukta which is subject matter of challenge in the connected writ petition being W.P.(C) No. 3238 of 2018, and therefore, the parties have jointly submitted that the writ petition being W.P.(C) No.4430 of 2017 has become infructuous.

**25.** The fact also remains that in view of the various orders passed by this Court from time to time with respect to the matter regarding environment clearance to the unit of the petitioner, much water has flown during the pendency of this case.

**26.** Considering the submissions and the fact that various orders impugned in W.P.(C) No.4430 of 2017 were passed during the pendency of the proceeding before learned Lokayukta and that there was a specific order by this Court on 03.08.2017 directing the petitioner to cooperate and now that the final order has been passed, nothing survives in W.P.(C) No.4430 of 2017 which is said to have become infructuous by the learned counsels for the parties, and accordingly, the writ petition being *W.P.(C) No.4430 of 2017* is dismissed as infructuous.

**27.** Pending interlocutory application, if any, is closed.

**Findings of this Court in W.P.(C) No. 3238 of 2018**

**28.** This Court finds that the office of the learned Lokayukta through the Secretary has been made party in the present proceedings primarily on account of the reason that, in spite of having filed application for a certified copy, it was alleged that the certified copy was not available to the petitioner and, accordingly, a prayer was



made to call for the records and quash the same. However, during the course of hearing the impugned order which has been annexed along with the writ records, it is not in dispute that the said annexure is the final order passed by the learned Lokayukta dated 22.12.2017 in Lokayukta Case No.01/Lok (Forest) 03 of 2014.

**29.** The sequence of events reveal that the petitioner has set-up an integrated steel plant after taking due approval from the Ministry of Environment, Forest and Climate Change which was granted vide letter dated 21.02.2008. The consent to operate the steel plant was also issued in terms of the order passed by Jharkhand State Pollution Control Board dated 13.02.2017. A case was instituted before the learned Lokayukta which was numbered as Case No.01/Lok (Forest) 03 of 2014 by one Ajay Dubey, against Mahendra Mahto, Member Secretary, Jharkhand State Pollution Control Board and other public servant.

**30.** Pursuant to orders passed by learned Lokayukta, a letter dated 12.05.2017 was served upon the petitioner by the Deputy Commissioner, Bokaro regarding measurement of land of the petitioner. The said letter was challenged by the petitioner in W.P.(C) No.4430 of 2017. Another letter dated 26.07.2017 was issued by Ministry of Environment, Forest and Climate Change, Government of India on account of orders passed by learned Lokayukta, stating that a team was constituted to inspect the factory premises of the petitioner. The said letter dated 26.07.2017 was also subject matter of challenge in W.P.(C) No.4430 of 2017. As already stated above in W.P.(C) No.4430 of 2017, an order was passed directing the petitioner to cooperate with the inspection and ultimately the final order was passed by learned Lokayukta on 22.12.2017, which is subject matter of challenge in W.P.(C) No. No.3238 of 2018.

**31.** In the meantime, a proceeding under Insolvency and Bankruptcy Code was initiated before National Company Law Tribunal, Kolkata and moratorium was declared on 21.07.2017 by admitting application filed by the State Bank of India. The resolution plan was submitted by M/s. Vedanta and on 17.04.2018, the National

Company Law Tribunal approved the resolution plan filed by M/s. Vedanta, which was ultimately affirmed.

**32.** The primary grievance of the petitioner in this writ petition is that the petitioner was never granted any opportunity of hearing in the entire proceeding before the learned Lokayukta and accordingly, the petitioner is only aggrieved by the findings and observations made in the impugned order against the petitioner, which has a serious bearing against the petitioner. Some of the observations by which the petitioner is aggrieved and have been made in the impugned order has been furnished before this Court in tabular chart by the learned counsel for the Petitioner, which is quoted as under:

ADVERSE REMARKS AND ASPERSIONS in the impugned order	
Para-1, Page-97, 1st Line from Top	Aforesaid company has extended its premises upto Mauza Bhagaband Block, Chas, after encroaching forest land but the Member Secretary of the Board never addressed the issue...
Para-5, Page-99	Again the matter was taken up on 31.03.2017. In course of hearing the complainant repeated the allegations leveled by him in the complaint and further submitted that the Board had wrongly considered the order dated 29.11.2013 passed by Hon'ble High Court and Cont. Case (Civil) No. 939 of 2013...
Para-6, Page-100, 1st Line	Correspondences available on record clearly indicate that the company has shifted the site and it was constructed at Bhagaband within Block Chas, District Bokaro. In fact brought on record is correct, certainly the company has committed fraud for the purpose of obtaining clearance from the MoEFCC, Government of India and from the Board as well.
Para-8, 4th Line Page-101	From perusal of the record prima facie it appears that Shri A.K. Pandey, Chairman, Shri Sanjay Kumar Suman, Member Secretary and Shri Mahendra Mahto the then Member Secretary, Board have somehow or the other, for the reason known to them, this way or that way have extended favour to M/s Electrosteel Steels Ltd. Bokaro and therefore I feel it necessary and it is also demand of natural justice to give them opportunity to put their stand in the matter and vide order dated 07.09.2017, they were directed to submit their show cause. In compliance thereto they have submitted their show cause.
Para-9(iii), Page-102	M/s Electrosteel Integrated Ltd. in course of installation of its unit, encroached forest land, which fact came to knowledge of the Divisional Forest Officer, Bokaro whereafter the Divisional forest Officer, Bokaro sent a letter dated 04.05.2010 and also reminder vide letter no. 1752 dated 26.09.2011 to Member Secretary, Board intimating the issue of encroachment of forest land made by M/s Electrosteel Integrated Ltd.
Para-9(iv), Page-102	Since the Company has encroached forest land the matter was brought to the notice of all concerned. An information was also given too MoEFCC, Government of India by Board vide letter dated 18.05.2012...
Para-11, Page-106	In course of establishing the plant aforesaid company by encroaching notified forest land had extended its boundary up to Bhagaband, Block Chas., District Bokaro. When the company made encroachment over forest land, the forest officials took action and lodged cases u/s 33 of the Indian Forest Act and other recourse to have also been taken. At this juncture the company had taken a plea that it had purchased land from decree holder who got decree against Government of Jharkhand including forest department in Title Suit No. 25 of 1996, it appears that vendor of the company got

	a decree against the forest department over a land area measuring approx. 17 acres. Neither the Company nor the Advocates appearing on behalf of the Government of Jharkhand ever pointed out this fact before the Hon'ble High Court.
Para-12(i), Page-107	It is very clear that M/s Electrosteel Integrated Ltd. was always unfair in its approach from the very beginning. M/s Electrosteel Steels Integrated Ltd. got environmental clearance for establishing (3.00 MTPA) integrated steel plant at Chandankiyari Block, Bokaro, but in course of installation, the company changed its name and style and now it is known as Electrosteel Steels Ltd.
Para-12(ii), Page-107	In the application for grant of Environment Clearance, the company has clearly stated that the company is going to be established on agricultural land. No national park and wild life sanctuary is located within 10 km radius and no forest land is involved. But the company did not stick to its declarations and encroached more than 200 acres of forest land and extended its boundary up to Bhagaband, Chas Block, Bokaro.
Para-12(iii), Page-107	When the Forest Department took action against encroachment of land, the company filed writ petitions before the Hon'ble High Court in different cases for getting various relief. All the time the company had been taking plea that the company has purchased land from the vendor who got decree in Title Suit No. 25 of 1996. It has already been indicated above that land involved in Title Suit No. 25 of 1996 is limited to the extent of land area measuring approx. 17 acres whereas the forest land encroached by the company is more than 200 acres.
Para-13, Page-108, 3rd Line from bottom	It is evident from the correspondences made by an between the Department of Forest and Environment, Government of Jharkhand and Board and also MoEFCC, Government of India that M/s Electrosteel Steels Ltd., in course of establishing its plant had encroached forest land which is notified as Jangal-Jhar...
Para-14, Page-110, 6th Line	...Apparently, the condition precedent mentioned in the application was violated...
Para-16, Page-111, 9th Line from top	I am making this observation against present Member Secretary because of the reason, the Divisional Forest Officer, Bokaro Forest Division, Bokaro, vide its letter no. 1142 dated 04.05.2010 and reminder letter no. 1752 dated 26.09.2011 has clearly brought it to the notice of the Board that the company has encroached forest land but instead of considering aforesaid fact, the Member Secretary started interpreting the issue that Board is not empowered to decide the title of the parties at the time of granting CTO. In order to justify his decision he had taken advantage of judgment and decree passed in Title Suit No.25 of 1996 and to strengthen his stand he had also sought opinion from the Advocate General, Jharkhand. Although it would be repetition of the fact but the decide the issue, I feel it necessary to mention certain facts appearing on record. It is made clear that the company purchased land measuring approx. 17 acres from a decree holder who got a decree in Title suit No.25 of 1996 against forest department, but the fact remain that the company has encroached more than 200 acres of forest land...

**33.** This Court has gone through the impugned order and finds that the aforesaid extracts, as mentioned in the aforesaid chart, finds place at various places in the impugned order passed by the learned Lokayukta.

**34.** It is not in dispute during the course of argument that there are various proceedings pending in connection with the unit of the petitioner before the Court / Tribunal and one such proceeding is also pending before the Ministry of Environment, Forest, and Climate

change and numerous orders have been passed by this Court in other writ petition and at one point of time, when the continuation of interim relief with regard to operation of the unit was denied by this Court, the matter went up to till the Hon'ble Supreme Court and Hon'ble Supreme Court has passed the following order.

*“80. We are of the view that the High Court erred in passing the impugned order, vacating interim orders which had been in force for two years. The impugned order is not in conformity with the principle of proportionality. This is not a case where the steel plant was started without environmental clearance or consent of JSPCB. The appellant had applied for and obtained environmental clearance to set up an integrated steel plant (3 MTPA) on 1350 acres of land at Mauza South Parbatpur, as observed above. Environmental clearance had been granted on 21-2-2008 and consent to operate had been granted by JSPCB on 5-5-2008.*

*81. The appellant established its steel plant in Mauza Bhagaband, 5.3 km away from the site for which EC and CTE had been granted. It is the contention of the appellant that the shift is minor and makes no change in the EIA/EMP on the basis of which EC has been granted. The shift did not require fresh public hearing in terms of the Circular dated 22-1-2010 of the MoEF.*

*82. As aforesaid, by a Letter dated 2-12-2011 addressed to the appellant, the MoEF confirmed that the steel plant of the appellant was within the environment impact area and the affected people had the opportunity to air their views in a public hearing. The question is whether the petitioner was required to obtain fresh prior clearance for shifting or was covered by the exemption under the said Notification dated 22-1-2010.*

*83. The appellant has all along asserted that no part of the premises of the integrated steel plant is in any forest. As such there was no violation of the Forest Act, 1927 or the Forest Conservation Act, 1980. The MoEF had also confirmed that the steel plant in question was well within the environment impact area and the affected people had the opportunity in a public hearing. Be that as it may, whether the shifting of the site has really made any difference from the environmental impact angle requires consideration by the appropriate authority/forum.*

*84. In any case, the appellant has duly applied for ex post facto forest clearance approval without prejudice to its rights and contentions that its steel plant is not on forest land and also applied for revised EC. On 17-12-2019, MoEF and CC accorded ex post facto in principle approval to the forest clearance proposal on the recommendations of the Forest Advisory Committee. The application for revised clearance is pending consideration. No final decision has however been taken, ostensibly in view of the interim order passed by the Madras High Court staying the operation of the standard operation procedures issued vide Memorandum dated 7-7-2021.*

*85. The interim order passed by the Madras High Court appears to be misconceived. However, this Court is not hearing an appeal from that interim order. The interim stay passed by the Madras High Court can have no application to operation of the standard operating procedure to projects in territories beyond the territorial jurisdiction of the Madras High Court. Moreover, final decision may have been taken in accordance with the Orders/Rules prevailing prior to 7-7-2021.*

*86. In passing the impugned order, the High Court overlooked the consequences of closure of an integrated steel plant with a workforce*

*of 300 regular and 700 contractual workers. The High Court also failed to appreciate that the judgment of this Court in Alembic Pharmaceuticals was distinguishable on facts. Furthermore, continuance of the interim orders allowing operation of an industrial establishment or even the grant of revised EC to the industrial establishment cannot stand in the way of action against that establishment for contraventions, including the imposition of penalty, on the principle "polluter pays". The scope and effect of Section 32-A IBC is a different issue. This Court need not examine into the question of whether penal action can be initiated against the appellant or, whether compensation can be recovered from the appellant, at this stage. The issue may be decided by the appropriate authority at the appropriate stage when it adjudicates an action for penalisation of the appellant or recovery of compensation from the appellant. The application of the appellant for revised EC, CTO, etc. shall be considered strictly in accordance with environmental norms.*

*87. The appeals are allowed. The impugned order is set aside. Respondent 1 shall take a decision on the application of the appellant for revised EC in accordance with law, within three months from date. Pending such decision, the operation of the steel plant shall not be interfered with on the ground of want of EC, FC, CTE or CTO."*

**35.** This Court is of the considered view that the observations and remarks which have been made by the learned Lokayukta in the impugned order may have serious bearing in the matters pending before the Court/Tribunals/Ministry, and such observations could not have been made at the back of the petitioner without granting an opportunity of hearing. The fact remains that the petitioner was not made a party before the learned Lokayukta nor was given any opportunity by the learned Lokayukta to keep its stand before learned Lokayukta. In such circumstances, this Court is of the considered view that the petitioner is required to be protected so that the observations, aspersions, and remarks made against the petitioner in the impugned order may not prejudice the case of the petitioner before the other authorities where the matter regarding environmental clearance/ operation of the unit of the petitioner is pending. The fact remains that the matter regarding environmental clearance to the petitioner with regard to the unit involved is still under consideration by the Ministry of Environment, Forest and Climate Change.

**36.** So far as the judgment relied upon by the respondents reported in *(2015) 8 SCC 117 (supra)* is concerned, this Court finds that the learned counsel for the petitioner has rightly distinguished the same inasmuch as, in the said proceeding, the concerned appellant was the public servant, whose conduct was under scrutiny by the learned



Lokayukta and who was already participating in the proceedings but was aggrieved by the denial of the opportunity of personal hearing. In the present case, the petitioner was never a party before the learned Lokayukta and, accordingly, the case of the petitioner is clearly distinguishable from the case reported in *(2015) 8 SCC 117 (supra)*.

**37.** In the judgment passed by the Hon'ble Supreme Court reported in *(2024) 2 SCC 570 (supra)* the matter was arising out of an order passed by the National Consumer Disputes Redressal Commission whereby the complainant was held to be entitled for compensation as prayed in its complaint with interest @ 9% per annum. Both the parties were before the Hon'ble Supreme Court in separate appeals. The grievance of the claimant was that the National Commission ought to have allowed the entire amount as assured even if it exceeded the amount claimed as compensation. The Hon'ble Supreme Court rejected the plea on the ground that a party is not entitled to seek relief which he has not prayed for. The said judgment does not apply to the facts and circumstances of this case. In the present case the relief prayed by the petitioner is for quashing the order passed by learned lokayukta and during course of argument, it has been argued by the petitioner that it would suffice to observe that the aspersions/remarks made in the impugned order which have been made without making the petitioner party and without hearing the petitioner may not prejudice the petitioner in any manner and may not have any adverse impact on any proceeding pending before any authority/court. In view of the aforesaid facts and circumstances, this Court is of the view that the prayer made during argument of the case would certainly fall within the broad contours of the relief as prayed for by the petitioner.

**38.** Accordingly, it is observed that the observations, aspersions, and remarks made against the petitioner in the impugned order shall not prejudice the case of the petitioner before any authority, forum, or court and the concerned authorities shall decode the matter in accordance with law. Any part of the impugned order passed by learned Lokayukta which cast aspersions upon the petitioner shall be ignored and will not be taken into consideration by the concerned



authorities for any purpose against the petitioner. This, however, will not in any way come in the way of the concerned authorities to apply their independent mind to take an action against the petitioner if they have committed breach of law while conducting themselves. It is observed that this judgement will have no bearing on the pending writ petition filed by the officer(s) who were parties before learned Lokayukta.

**39.** The writ petition being *W.P.(C) No. 3238 of 2018* is disposed of in the aforesaid terms.

**40.** Pending interlocutory application, if any, is closed.

**(Anubha Rawat Choudhary, J.)**

*Saurav/*