

HIGH COURT OF MEGHALAYA
AT SHILLONG

W.A 14 of 2020

Date of Order: 23.03.2020

Shri. Georgeman Marak Vs M/s Pahal Coal Traders
Pvt. Ltd & 10 Ors.

Coram:

Hon'ble Mr. Justice Ranjit Vasant Rao More, Judge

Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Petitioner/Appellant(s) : Mr. N. Mozika, Sr. Adv. with
Ms. S. A. Shallam, Adv.

For the Respondent(s) : Mr. K. Paul, Adv. for R-1 with
Mr. S. Thapa, Adv.
Ms. S. G. Momin, Addl. Sr. GA.

Heard.

The respondent No.1 filed W.P (C) No. 10 of 2020 before the learned Single Judge of this Court. By the said petition, respondent No.1 challenged the auction notice dated 14-11-2019, the sale pursuant to the auction conducted on 29-11-2019, as well as subsequent orders passed by the respondent authority relating to auction notice dated 14-11-2019. Directions were also sought for issuance of the fresh tender for auction of unclaimed seized coal in accordance with the due process. The said writ petition came to be disposed of by the learned Single Judge by a speaking order dated 18-03-2020. The operative part of the order runs as follows:-

“(a). Coal present in the depots/site to be re-auctioned less the amount lifted as on 15-01-2020.

(b). Coal lifted and stopped in transit, not to be allowed for further transportation until the ‘*differential*

***amount'**, [that is the amount of difference between the successful bid amount in the re auction, and the earlier bid amount] is tendered by the private respondents before the competent authority/ Deputy Commissioner within one week from date of auction. Amount to be tendered by bank draft or by RTGS. The Mineral Transport Challan to be re stamped to indicate payment of differential amount.*

(c). Coal lifted, transported and already delivered to various sources/buyers prior to 15-01-2020, to be accounted for and details submitted as to quantity, to the competent authority/ Deputy Commissioner, and the differential amount to be tendered within one week from the date of auction."

The appellant in whose favour earlier auction was granted, feeling aggrieved has approached this Court by way of aforesaid appeal. Learned counsel for the appellant submits that he has no objection so far as the directions of the learned Single Judge, contained in clause (a) and (c) as mentioned above are concerned. He submits that the present appeal is filed being aggrieved by the order containing in the operative part of the clause (b).

Learned counsel for the appellant submits that the appellant has lifted targeted coal to the extent of 1,200 trucks out of which 550 trucks have already reached the destination before 15th January, 2020 and the remaining trucks are standing standstill on the road because of the operative part of the order contained in Clause (b) mentioned above.

Learned counsel for respondents submits that the said trucks are standing since 15th January, 2020 till today. He also shows his willingness to deposit the fixed price i.e. an amount of rupees 2,160/- per tonne of coal minus the amount already paid i.e. rupees 1,275/- with respondent No.8. He further submits that the '**differential amount**', [that is the amount of difference between the successful bid amount in the re auction, and the earlier bid amount] is concerned, appellant will give bank guarantee of a nationalized bank for an amount of rupees 50,00,000/- (fifty lakhs rupees). Statements accepted.

Learned counsel for the respondent No.8 on instruction states that the proposal given by the learned counsel for the appellant is acceptable to the respondent No.8. She on specific instruction states that once the appellant deposit the base price i.e. amount of rupees 2,160/- per tonne of coal minus the amount already paid i.e. rupees 1,275/- and furnish the bank guarantee, as stated above, then the appellant will be permitted to transport the coal in the remaining trucks. Learned counsel for the appellant also undertakes that if the differential amount is more than rupees 50,00,000/- (fifty lakhs), the appellant shall deposit the same with the respondent No.8 within a period of 8 days from the date of re-auction. Undertaking accepted.

Mr. K. Paul, learned counsel for the respondent No.1, however, wants to take instruction from his client and he requested for some time.

In the above circumstances, we defer the hearing of this appeal, stand over to 30-03-2020.



W. Diengdoh

(Judge)

Ranjit Vasantrao More

(Judge)

Meghalaya
23.03.2020
"Biswarup, PS"