

ITEM NO.12

COURT NO.8
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION XI-A

M.A. No.231 of 2019 in SLP(C) No(s). 6933/2007

MAHANADI COAL FIELDS LTD.& ANR.

Petitioner(s)

VERSUS

MATHIAS ORAM . & ORS.

Respondent(s)

(OFFICE REPORT FOR DIRECTIONS

IA No. 115629/2019 - CLARIFICATION/DIRECTION

IA No. 41949/2019 - INTERVENTION/IMPLEADMENT

IA No. 33126/2019 - INTERVENTION/IMPLEADMENT

IA No. 115624/2019 - PERMISSION TO FILE APPLICATION FOR DIRECTION)

WITH

CONMT.PET.(C) No. 540/2019 in SLP(C) No. 6933/2007 (XI-A)

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CONMT.PET.(C) No. 552/2019 in SLP(C) No. 6933/2007 (XI-A)

CONMT.PET.(C) No. 553/2019 in SLP(C) No. 6933/2007 (XI-A)

CONMT.PET.(C) No. 554/2019 in SLP(C) No. 6933/2007 (XI-A)

CONMT.PET.(C) No. 555/2019 in SLP(C) No. 6933/2007 (XI-A)

CONMT.PET.(C) No. 556/2019 in SLP(C) No. 6933/2007 (XI-A)

CONMT.PET.(C) No. 557/2019 in SLP(C) No. 6933/2007 (XI-A)

CONMT.PET.(C) No. 558/2019 in SLP(C) No. 6933/2007 (XI-A)
CONMT.PET.(C) No. 559/2019 in SLP(C) No. 6933/2007 (XI-A)
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CONMT.PET.(C) No. 561/2019 in SLP(C) No. 6933/2007 (XI-A)
CONMT.PET.(C) No. 562/2019 in SLP(C) No. 6933/2007 (XI-A)
CONMT.PET.(C) No. 563/2019 in SLP(C) No. 6933/2007 (XI-A)
CONMT.PET.(C) No. 564/2019 in SLP(C) No. 6933/2007 (XI-A)
CONMT.PET.(C) No. 685/2019 in SLP(C) No. 6933/2007 (XI-A)
CONMT.PET.(C) No. 686/2019 in SLP(C) No. 6933/2007 (XI-A)
CONMT.PET.(C) No. 687/2019 in SLP(C) No. 6933/2007 (XI-A)

Date : 21-08-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MR. JUSTICE VINEET SARAN

For parties:

Mr. Tushar Mehta, SG
Mr. Atma Ram N.S. Nadkarni, ASG
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Ms. Priyanka Parida, Adv.
Mr. Anshuman, Adv.
Mr. Puneet Sheoran, Adv.

Mr. A.K. Sanghi, Sr. Adv.
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Mr. Nabab Singh, Adv.

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Mr. Gurjeet Singh, Adv.
Mr. Aftab Ali Khan, Adv.

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Mr. Kedarnath Tripathy, Adv.

Mr. Anish Kr. Gupta, Adv.
Mr. S.S. Rebello, Adv.
Mr. Raghav Sharma, Adv.
Ms. Arzu Paul, Adv.
Ms. Neeleshwar P. Adv,
Ms. Shivika Aggarwal, adv.

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

This matter has been engaging the attention of this Court for considerable length of time and various orders have been passed

from time to time.

We may refer to the order dated 15.7.2013 passed by this Court, which after considering the suggestions made by the Amicus Curiae had issued certain directions and one of the directions namely direction No.6 was as under:

"6. Two villages namely, Kirpsira and Ratansar had been transferred by the Union of India by issuing notifications dated 13.9.2006 and 17.1.2008 to other companies. The Commission is requested to proceed with the work in respect of these two villages. At the initial stage, payment of compensation will be the liability of the MCL and it may recover the said amount from the successor company. In case, there is any difficulty to MCL in getting the said amount sanctioned from the Central Government in this regard, it may move an application before this Court for appropriate action."

The order took note of the fact that two villages Kirpsira and Ratansar were transferred by the Union of India by notification dated 13.9.2006 and 17.1.2008 to other companies. The learned Solicitor General submitted that apart from these two villages, the lands from villages Garjanbahal and Bangurkela have since then been made over to Orissa Ultra Megha Power Project of Orissa Integrated Power Ltd. ("OIP Ltd." for short) and as such the obligation which Mahanadi Coal Fields Ltd. ("MCF Ltd" for short) is required to discharge in terms of Orissa Resettlement and Rehabilitation Policy Act, 2006 ("R&R Policy" for short), would require a re-look.

It may be stated at this juncture that under the R&R Policy, Six categories are mentioned under Type "B" Mining Projects where the persons coming under these categories are extended certain

packages in terms of R&R Policy. The relevant portion of the Policy in that behalf is as under:

"Type B: Mining Projects:

(a) Employment: Displaced and other affected families shall be eligible for employment, by the project causing displacement. For the purpose of employment, each family will nominate one member of the family.

The project proponent will give preference to the nominated members of the displaced and other affected families in the matter of employment. The order of preference will be as follows:

- (I) Displaced families losing all and including homestead land,
- (ii) Displaced families losing more than 2/3rd of agricultural land and homestead land,
- (iii) Families losing all agricultural land but not homestead land,
- (iv) Displaced families losing more than 1/3rd of agricultural land and homestead land,
- (v) Displaced families losing only homestead land but not agricultural land.
- (vi) Families losing agricultural land in part but not homestead land.

The project authority will make special efforts to facilitate skill up-gradation of the nominated member of the displaced family to make him/her 'employable' in their project.

1. In case of nominees of displaced families eligible for employment otherwise, the upper age limit shall be relaxed by five years.

2. Project authorities should notify their employment capacity sufficiently in advance.

3. As far as practicable, the objective shall be to provide one member from each displaced/other family as mentioned above with employment in the project. However, where the same cannot be provided because of reason to be explained in writing, cash compensation as mentioned below shall be: provided to such families, who do not opt for employment/self-employment as mentioned in sub para (a) above and (b) below, shall be provided by the Project authority with one time cash assistance in lieu of employment at the scale indicated

below:

Sl.No.	Families under Category As per sub-para (a) above	Amount of one time cash assistance (Rs. In lakhs)
(i)	Displaced Families coming under category (i)	5.00
(ii)	Displaced Families coming under category (ii)	3.00
(iii)	Displaced Families coming under category (iii)	2.00
(iv)	Displaced Families coming under category (iv, (v) & (vi))	1.00

It may be relevant to note that the compensation payable for categories (i) to (vi) has since then been revised and instead of amounts of Rs.5 lakhs, Rs.3 lakhs, Rs.2 lakhs and Rs.one lakh, the revised figures now stand at Rs.10 lakhs Rs.10 lakhs, 7 lakhs and 3.5 lakhs respectively.

The learned Solicitor General submitted that in terms of R& R Policy in respect of matters coming under first two out of six categories in sub-clause (a), MCF Ltd. would be required to give employment to the concerned persons. However, since part of the lands are now made over to the OIP Ltd. , the obligation in that behalf to extend the opportunities by way of employment ought to be discharged by the successor company and not by MCF Ltd.

During the course of discussion, the learned solicitor General relied upon direction No.6 in the order dated 15.7.2013 and submitted that this Court had acknowledged that the liability to a certain extent ought to be shouldered by the successor Company. That direction was relied upon to bring home the point that MCF Ltd. be discharged from the obligation to give employment to the

persons coming under first two categories in respect of lands which are now made over to the OIP Ltd.

It was also submitted that MCF Ltd. has till this date given employment to 1634 persons and it would not be possible for the MCF Ltd. to extend the same facility to others, especially when lands lost by those families are not enuring to the advantage of MCF Ltd. It was also suggested that MCF Ltd. in the first instance is prepared to deposit or make over a sum of Rs.10 lakhs to each of the relevant claimants by way of monetary compensation in lieu of employment with a liberty to recover the same from OIP Ltd.

The learned counsel appearing for the claimants including the petitioners who have filed contempt petitions however, expressed their inability to accept said offer. It was their submission that the persons who were holders of the land, as a result of the acquisition now stand completely displaced and the only connection which they could retain with the land was through the employment which would guarantee them occupation and residence in and around the lands in question.

In the circumstances, we issue notice to Orissa Integrated Power Ltd. whose address is stated to be:-

" Orissa Integrated Power Ltd.
First Floor, URJANIDHI,
1, Barakhambha Lane,
Connaught Place,
New Delhi."

Notice shall also be served through Mahanadi Coal Fields Ltd., returnable on 1.10.2019.

Dasti in addition.

The affidavit of service shall be filed before the next date of hearing.

**(INDU MARWAH)
COURT MASTER**

**(SUMAN JAIN)
BRANCH OFFICER**