

Union of India and Others

Vs

Sharma Coal Co.

Civil Appeal No. 9059 of 1996

(K. Ramaswamy, G. B. Pattanaik JJ)

10.05.1996

ORDER

1. Leave granted.
2. Though the respondents have been served, none appears either in person or through the counsel. We have heard counsel for the appellants.
3. This appeal arises from the order of the Division Bench of the Guwahati High Court in a batch of writ petitions being Civil Rule No. 1153 of 1989 and batch passed on 30-7-1990. The Railway administration had prepared a preferential traffic scheme (PTS), by general order No. 71 categorising the priority articles for carriage by Railways and allotted different priorities which are made in alphabetical orders A to E. Sponsored coal movement was mentioned in Category C priority and priority E would include non-sponsored coal. Subsequently by proceedings dated 1-3-1989 the Railways modified its earlier scheme and issued general PTS Order No. 77 with effect from 1-4-1989 under which priorities were redetermined. It would appear that subsequently non-priorities coal Item E was deleted from the priority scheme. When the respondents and others challenged its validity on the avail of Article 19(1)(g) of the Constitution, the Division Bench of the High Court without disturbing the validity of the order had given direction observing that after all the priorities enumerated in the scheme are exhausted and if the wagons remain unutilised, the unutilised wagons may be kept at the disposal of non-priority articles for carriage. Thus this appeal came to be filed by special leave.
4. It is seen that in Order No. 75 priorities A to E were made which included sponsored coal within the meaning of the order and non-sponsored coal within the meaning of the order and non-sponsored coal provided in priority E for allotment of wagons. With regard to non-priority Item E, if subsequently deleted as mentioned in paragraph E of the special leave petition which reads as "the Order No. 77 relates to PTS for allotment of wagons which came into force from 16-7-1986, but non-sponsored coal referred to in priority E of PTS No. 75 was removed". It would thus be seen that non-priority coal came to be removed from the priorities mentioned in Items A to E. Therefore, the High Court obviously was of the intention to direct that if after the wagons allotted for movement of priority articles remained available, the same may be allotted for non-priority articles for carriage. We do not think that there is any impediment in the way of administration to give such allotment, instead of keeping them idle. It would be in commercial interest of the Railway administration.
5. The appeal is accordingly disposed of. No costs.