

SUPREME COURT OF INDIA

Bharat Coking Coal Ltd.

Vs.

Indian Newspaper Society

C.A.No.2903 of 2005

(Aftab Alam and R.M.Lodha,JJ.,)

19.01.2011

JUDGMENT

1. Heard Mr. Abhishek Kumar, counsel appearing for the Appellant, and Mr. Pijush K. Roy, counsel appearing for Respondent No. 3 M/s. Ranchi Data System.

2. The Appellant filed a petition before the Jharkhand High Court under Articles 226 and 227 of the Constitution of India challenging the order dated August 08, 2003 issued by the Respondent No. 1 The Indian Newspaper Society, asking its members not to publish any advertisements on behalf of the Appellant. The Writ Petition came to be finally dismissed as not maintainable by order dated January 22, 2004. The High Court seems to have noticed that Respondent No. 1 was a society registered under the Societies Registration Act, 1860. It was not 'State' or an agency or instrumentality of the 'State' against which a writ would issue. The High Court while dismissing the Writ Petition, made the following observations:

Before parting with this Order I must observe that this Court is not the appropriate forum for deciding the dispute with regard to the claim by and in between the Petitioner and the Respondents. It is a matter to be adjudicated by the Civil Court of competent jurisdiction. this Writ Application, accordingly stands disposed of.

3. However, before the Writ Petition was eventually dismissed, some interim orders were passed staying the operation of the order dated August 08, 2003 passed by Respondent No. 1 Society. In the stay order, the Appellant was directed to deposit the disputed amount of ' 3,24,642/- with Respondent No. 1 with liberty that the amount could be paid to the claimant, Respondent No. 3. On the basis of the interim order, the Appellant deposited the aforesaid amount with Respondent No. 1 and it was given to Respondent No. 3. While dismissing the Writ Petition, the High Court did recall or modify the interim order passed earlier, but confirmed the deposit made by the Appellant and the payment of the money to Respondent No. 3.

4. We are of the view that since the Writ Petition itself was not maintainable, no interim order for deposit or payments etc. could have been made and while dismissing the Writ

Petition as not maintainable, the High Court ought to have restored the parties to their original position.

5. We, accordingly, direct Respondent No. 3, who was the recipient of the money deposited by the Appellant, to pay back the entire amount received by it from the Appellant through Respondent No. 1 to the Appellant within six weeks from today. In the facts of the case, we do not propose to impose any interest on the amount to be refunded.

6. The Civil Appeal is disposed of with the aforesaid observations and directions.

7. It will be open to Respondent No. 3 to agitate its grievances against the Appellant before Respondent No. 1 Society which, in case any such application is submitted to it shall, take appropriate steps in accordance with law.