SUPREME COURT OF INDIA

Bhushan Power & Steel Ltd.

Vs.

Rajesh Verma

(Surinder Singh Nijjar and A.K. Sikri JJ.)

22.04.2014

JUDGMENT

A.K SIKRI, J.

1. All the aforesaid matters were heard analogously as they are inter- connected. In fact, it is the judgment dated 14.3.2012 passed in C.A. No. 2790 of 2012 which has become the trigger point of all other cases. C.A. No. 2790 of 2012 was filed by M/s. Bhushan Power and Steel Ltd. (formerly known as Bhushan Limited) (hereinafter referred to as 'BPSL'). That was an appeal against the judgment passed by High Court of Orissa whereby the High Court had dismissed the writ petition of the BPSL. Before proceeding further, we would like to narrate the nature of different cases and the background in which they came to be filed. CCP No. 374 of 2012

2. The erstwhile Bhushan Limited had proposed setting up of plant in some identified villages in the District of Sambalpur, Orissa. For this purpose it had made a request for acquisition of land, measuring 1250 acres, which was acquired for Bhushan Limited. It had also applied for grant of lease of mining of iron ore for use in the proposed plant. These applications were favourably considered by the State Government which agreed to accord due priority to Bhushan Limited for grant of suitable iron ore areas and also agreed to recommend the proposal to the Government of India for grant of a Coal Block. Even a MOU was entered into between the State Government and Bhushan Limited containing the commitment of the State Government to recommend to the Central Government, grant of iron ore mines for its use in the proposed plant. For this purpose area earmarked for recommendation were Thakurani area with 96

million tonnes iron ore reserves and Keora Area, District Sundargarh for additional 128 million tonnes of iron ore; both for 50 years requirement of the plant. Though various statutory and other permissions required for setting up of the plant were granted and the plant was also set up, but due to some in-fight between the family members who owned Bhushan Limited, it faced difficulties in getting the grant of iron ore lease.

3. In so far as granting of mining lease of iron ore reserves in the aforesaid areas is concerned, it fell into rough weather. It resulted into show cause notice dated 18.1..2006 by the State Government which led to the decision that mining lease over the Thakurani area could not be allowed on various grounds and the application made by Bhushan Limited was premature. Thereafter, the Government of Orissa made a recommendation to the Central Government on 9.2.2006 to grant mining lease in favour of one M/s Neepaz Metallics (P) Ltd. in relaxation of Rule 59(1) of the Mining Rules, for a period of 30 years. Challenging these orders, Bhushan Limited filed the writ petition in the High Court on 8.5.2006. This Writ Petition was dismissed by the High Court on 14.12.2007 and challenging this decision Special Leave Petition was filed which was granted converting the SLP into C.A. No. 2790/2012. This appeal was allowed by this Court vide judgment dated 14.3.2012 with the following directions:

> Accordingly, we allow the appeal and set aside the judgment and order of the High Court of Orissa and also the decision of the State Government dated 9.2.2006, rejecting the Appellant's claim for grant of mining lease. During the course of hearing, we have been informed that Thakurani Block A has large reserves of iron ore, in which the Appellants can also be accommodated. We, accordingly, direct the State of Orissa to take appropriate steps to act in terms of the MOU dated 15.5.2002, as also its earlier commitments to recommend the case of the Appellants to the Central Government for grant of adequate iron ore reserves to meet the requirements of the Appellants in their steel plant at Lapanga.

4. It would be pertinent to mention that State of Orissa had filed Review Petition seeking review of this judgment but the same was rejected. Pursuant to the aforesaid directions, though the BPSL has been given Thakurani Block A, the order has not been implemented qua Keora, District Sundargarh. That is precisely the cause for filing Contempt Petition (Civil) No. 374 of 2012 by BPSL.

I.A. No. 14 of 2013

5. The State of Orissa and its officials who are impleaded as Contemners in the CCP have filed their replies to the CCP expressing certain difficulties because of which they claim that the directions given in the judgment are incapable of enforcement. Simultaneously, Respondent No. 1/ State of Orissa has filed instant I.A. No. 14 of 2013 as well, in which certain subsequent developments which have taken place after the passing of the judgment dated 12.3.2012 are traversed. It is highlighted that there are certain other and legal proceedings filed by them are pending at various stages in the High Court or in this Court and the area claimed by them in those legal proceedings overlap with the area which is the subject matter of grant to BPSL. A reference is also made to subsequent judgment in the case of Sandur Manganese & Iron Ore v. State of Karnataka; (2010) 13 SCC 1 which has changed the legal position thereby making it difficult for the State to recommend the case of the petitioner. It is also stated that the issue which is dealt with by this Court in Sandur Manganese (Supra) was not raised in the Writ proceedings/ Civil Appeal of the BPSL. On the basis of the aforesaid averment prayer made in the I.A. reads as under:- Pass appropriate directions with regard to implementation of the directions contained in final order and judgment dated 14.3.2012 passed by this Hon'ble Court in Civil Appeal No. 2790 of 2012 in so far as it relates to the mining lease applications of the petitioner for an additional 128 million tonnes of iron ore over lands in Keora area of Sundergarh District.

I.A. NO. 2 OF 2013 IN I.A. NO. 14 OF 2013

6. In I.A. No. 14 of 2013, this I.A. is preferred by M/s. Shri Mahavir Ferro Alloys Pvt. Ltd. The grievance of this applicant is against the status quo order dated 21.4.2008 passed in the applications filed by the BPSL. It is alleged that the applicant has filed 9 applications for grant of Iron Ore Mining Lease of different areas, notified as well as non-notified, including the Thakurani area. However, because of the status quo order the applications of the applicant not being considered by the State Government which is adversely affecting the interest of the applicant.

WRIT PETITION (CIVIL) NO. 60 OF 2013

7. While narrating the facts of C.A. No. 2790 of 2012 in brief, we had mentioned about the inter se disputes between the family members of erstwhile Bhushan Limited because of which BPSL faced difficulties in getting the grant of iron ore lease. It so happened that during the pendency of the aforesaid appeal, the family members resolved their disputes. On 28.2.2006, Bhushan Limited altered its name to BPSL. Other group got incorporated a company named as M/s. Bhushan Steel Limited (BSL). BSL is the petitioner in the instant petition. This significant development was taken note of in the judgment dated 14.3.2012 in the following manner:-

> As indicated hereinbefore, on 21st April, 2008, this Court passed an interim order in the Special Leave Petition filed by Bhushan Limited directing the parties to maintain status quo with regard to the lands indicated in the application filed by the appellants for grant of mining lease. However, one of the most significant developments that subsequently took place was that on 25th November, 2011, Shri B.B. Singhal and Shri Neeraj Singhal, Vice-Chairman and Managing Director of Bhushan Steel and Strips Ltd. filed affidavits withdrawing all their claims and rights in the MOU dated 15th May, 2002, executed between the State Government and Bhushan Limited and declaring that the said MOU was and had always been in favour of Bhushan power & Steel Ltd. The above named persons also prayed for deletion of their names from the array of parties.
>
> XXXXXXX
>
> The mutual settlement of the disputes between the members of the Bhushan Group has altered the situation considerably, since BSSL has withdrawn its claim under the MOU dated 15th May, 2002 and has declared that the said MOU was and had always been executed by the State Government in favour of Bhushan Power & Steel Ltd., which had set up its steel plant at Lapanga. As indicated hereinbefore, although, the MOU was entered into by the State Government with the Bhushan Group for setting up a steel plant at Lapanga, at a later stage, BSSL also laid claim under the MOU for setting up a separate steel plant at Mehramandali and a suggestion was also made for execution of a fresh MOU between the State Government and BSSL to this effect.

8. It is the case of the BSL in the present Writ Petition that BSL was a part of the then

Bhushan Group. It executed a MOU dated 15.5.2002 with the State of Orissa. Consequent to a family settlement, M/s. Bhushan Steel and Strips Ltd. (BSSL) executed a separate MOA dated 3.11.2005 in which the State of Orissa had identical duties and obligations as those contained in 2002 MOU. On 12.4.2007, BSSL was re-named as BSL herein. It is thus claimed that BSL is identically situated as BPSL and, therefore, the benefit given to BPSL vide judgment dated 14.3.2012 needs to be extended to the BSL as well. The direction in the nature of mandamus is sought to implement the decision of 12th IIAC Meeting dated 27.8.2003 and terms of MOA dated 3.11.2005 against the State Government by making appropriate recommendation to the Central Government for allotment of the remaining portion in Thakurani RF Block A, District Keonjhar i.e. 601.500 hectares applied while ML Application No. 882 and the areas applied vide ML Application No. 1079 i.e. 722.30 hectares approximately in village Kadalia, Kuriyakudar, Mithirda etc. under Bonai sub-division, District Sundegarh to meet the captive requirements of BSL plants.

9. In essence, the petitioner wants same treatment as is given to BPSL and, therefore, has prayed for the extension of the benefit of judgment dated 12.3.2012 to BSL as well.

WRIT PETITION (C) NO. 194 OF 2013

10. This Writ Petition is filed by Jindal Steel and Power Limited (hereinafter referred to as 'Jindal Steel'). It had entered into MOU with the State of Orissa on 8.5.2002. It is stated in the writ petition that this petitioner became an intervenor in C.A. No. 2790 of 2012 to protect its interest which has been duly taken note of in the judgment dated 14.3.2012 in the following manner:-

> Appearing for the Intervener, M/s. Jindal Steels Ltd., Mr. K.V. Vishwanathan, learned Senior Advocate, submitted that so long as any allotment made in favour of the Appellants did not impinge on the allotment made in favour of M/s. Jindal Steels Ltd;, it could have no grievance against a separate allotment being made in favour of the Appellants.

11. It is pleaded that the case of Jindal Steel is even on a better footing for grant of mining lease, application for which purpose are pending with the State of Orissa. It had also signed the MOU for setting up an integrated Steel Plant wherein similar

promise was made by the State Government for grant of a mining lease. Additionally, Jindal Steel had the advantage of being an earlier applicant for the mining lease in regard to Thakurani RF Block A area which was also a part of an MOU by BPSL. It is further mentioned that 16 mining lease applications were received in respect of the said area and the Director of Mines vide his report dated 8.11.2002 rejected all other applications except that of Jindal Steel herein, BPSL and three other applicants. In the case of Jindal Steel, recommendation was for 264 hectares in Thakurani RF Block A as against 383 Hectare in respect of BPSL. It is also stated that even when recommendation in respect of BPSL in Thakurani area is made by the State Government and approved by the Union of India, recommendation of Jindal Steel is still pending with the State Government. It is thus, pleaded that the case of the petitioner, Jindal Steel, is squarely covered by judgment dated 14.3.2012 passed in C.A. NO. 2790 of 2012 and benefit thereof be extended to this petitioner as well.

WRIT PETITION (C) NO. 837 OF 2013

12. This Writ Petition is filed by Shri Mahavir Ferro Alloys Pvt. Ltd. It has also proposed to set up a 0.35 MTPA Captive Integrated Steel Plant with additional facilities and 60 MW Captive Power Plant in Sundargarh district had an overall investment of Rs. 435 crores. This petitioner claims that pursuant to MOU entered into with the State Government for grant of mining leases, it had submitted its application in this behalf. However, more than 10 years have elapsed but the State Government has not recommended its case, primarily because of status quo orders passed by this Court in C.A. NO. 2790 of 2012. It is pointed out that for this reason this petitioner has already filed I.A. No. 2 in I.A. NO. 14 of 2013 in C.A. NO. 290 of 2012. Case of this petitioner, again, is that it is equally circumscribed and placed as BPSL as well as Jindal Steel and, therefore, entitled to the grant of mining lease as done in favour of BPSL by this Court vide judgment dated 14.3.2012.

13. We have reproduced, hereinabove gist of the cases filed by different parties to get the favour of the proceedings. It becomes obvious and can be readily understood that in so far as BPSL is concerned, by means of Contempt Petition, it is seeking the enforcement of the directions contained in its favour in the judgment dated 14.3.2012 passed in C.A. NO. 2790 of 2012. Three other parties namely BSL, Jindal Steel and Mahavir Ferro Alloys (P) Ltd. have filed Writ Petitions claiming same relief as given to the BPSL vide judgment dated 14.3.2012 on the ground that they are placed in the

similar or even better position than BPSL and, therefore, entitled to same treatment. Further, as already pointed out above, the State Government has ventured to exhibit its helplessness in carrying out the directions contained in the judgment dated 14.3.2012 even qua the beneficiary of the said judgment namely BPSL. In so far as other three writ petitioners are concerned, not only same difficulties are sought to be projected, it is also mentioned that are precluded from seeking same relief as given to BPSL for various reasons. That apart, even the maintainability of the writ petitions under Article 32 of the Constitution filed by these petitioners is questioned. In such a scenario it is apposite to first deal with the CCP filed by BPSL.

CONTEMPT PETITION (C) NO. 374 OF 2012 In

C.A. No. 2790 OF 2012

14. We have already narrated the gist of factual background in which BPSL approached the High Court and thereafter this Court for grant of mining leases of iron ore. As already mentioned, in the MOU entered into between the parties, the State Government had committed to recommend to the Central Government, for grant of iron ore mines to the BPSL for its use in the plant to be set up at Lapanga. In this behalf it was agreed to make the following recommendations to the Central Government:-

> (a) For grant of 96 million tonnes iron ore reserves in Joda Barbil Sector of Keonjhar (Thakurani area) for 50 years requirement of the plant.
>
> (b) For additional 128 million tonnes of iron ore reserves in Keora, District Sundergarh, to meet a requirement of 1.6. million tonnes for 50 years.

15. It is not necessary to set out the detailed facts which have been noted in judgment dated 14.3.2012, pertaining to the grant of permissions by various authorities enabling BPSL to get the land, electricity, permission for installation of a Captive Power Plant etc. etc. Armed with those permission, the BPSL set up the plant in Lapanga in the district of Sambalpur, Orissa. BPSL claims that is has invested Rs. 25,000 crores in this project. It is further mentioned that for running of this steel plant, uninterrupted supply of iron ore is essential. This plant was set up in a backward area of Orissa persuant to the scheme of the State Government. It is for this reason that the State

Government agreed to grant mining rights of iron ore reserves, keeping in view a total requirement of 200 million tonnes over a period of 50 years for the smooth running of the said plant. For this reason MOU dated 15.5.2002 was entered into. Since the grant of mining lease is by the Central Government under the Mining Act, State Government which is a recommendatory authority had agreed to recommend the case of the BPSL. There was deadlock for some period because of infight within Bhushan family. However, this impasse came to be resolved. Taking note of these developments the Court was of the opinion that there were two issues which arose for considerations namely:

> (a) Whether the Memorandum of Understanding dated 15th May, 2002 continues to subsist in favour of the appellants? (b) Whether the State Government is obliged to make recommendations for the grant of iron ore mines in terms of the stipulations contained in the aforesaid MOU dated 15th May, 2002 and whether in respect of the areas which had not been notified under Rule 59(1), the State Government can make a recommendation for relaxation of Rule 59(1) under Rule 59(2).

16. The Court deliberated at length on these issues and decided in favour of BPSL holding that MOU dated 15.5.2002 still subsisted in favour of the BPSL and also that State Government was under obligation to make recommendations as per the said MOU. The most relevant part of discussion, in this behalf, reads as under:

> Pursuant to the MOU with Bhushan Limited, the State Government had not only allotted land for the setting up of the steel plant at Lapanga, it had even extended all help for the commissioning of the plant, which, in fact, had already started functioning. However, it is the claim made by BSSL under the MOU executed on 15th May, 2002, that had created obstructions in the setting up of the steel plant at Lapanga. Despite having allotted land and granted sanction to Bhushan Limited to take steps for construction of the said plant, it was subsequently contended that the application filed by Bhushan Limited was premature and could not, therefore, be acted upon. Specific instances have been mentioned hereinabove of the steps taken by the various departments in extending cooperation to Bhushan Limited to set up its steel plant at Lapanga. To now turn around and take a stand that the application made by Bhushan Limited was premature, is not only unreasonable, but completely unfair to

Bhushan Limited, who have already invested large sums of money in setting up the plant. The State Government had, on its own , entered into the MOU with Bhushan Limited on 15th May, 2002, and had even agreed to request the Central Government to allot mining areas and coal blocks for operating the steel plant. Whatever differences that may have resulted on account of the dispute within the Bhushan Group, which could have led to the rethinking on the part of the State Government, have now been laid to rest by virtue of the settlement arrived at between the Bhushan Limited (now BPSL) and BSSL. The State Government has also accepted the said position. In addition to the above, the action taken by the State Government appears to us to be highly unreasonable and arbitrary and also attracts the doctrine of legitimate expectation. There is no denying the fact that the Appellants have altered their position to their detriment in accordance with the MOU dated 15th May, 2002. whatever may have been the arrangement subsequently arrived at between the State Government and BSSL, the original MOU dated 15th May, 2002, continued to be in existence and remained operative.

17. In so far as reserve of 96 million tonnes of iron ore in Thakurani mines are concerned, the State Government had made the recommendation to the Central Government, which has also approved the same in favour of the BPSL. The dispute now relates to Keora mines for a reserve of 128 million tonnes.

18. Respondents/ Contemners do not dispute (and in fact there is no scope for any dispute) that the aforesaid directions contained in the judgment have become final. Review Petition was filed by the State Government but unsuccessfully. One would, therefore, command for obeying these directions. However, the State Government/ Contemners have pleaded their helplessness by narrating certain circumstances which are captured herein below.

(a) These areas fall almost entirely within the areas notified on 23.8.1991 under Rule 59(1) of the Mineral Concession Rules, 1960. The validity of the notification dated 23.8.1991 is an issue in SLP(c)No. 31593 of 2010 and connected cases which are now listed for hearing on 17.01.2013 before another Division Bench of this Hon'ble Court.

(b) Further, it is seen that the applied area is overlapping with the applied area

of several other applicants, including M/s. Larsen & Toubro Limited and M/s. Tata Iron and Steel Co. Limited.

(c) It is also pointed out that earlier on 21.10.1997 an area of 998.93 hectares overlapping with applied area of the BPSL, was recommended in favour of M/s Larsen & Toubro Ltd. in puruance with the said company. However, this recommendation was withdrawn for certain reasons. Thereafter, even revised ML/ PL application of M/s. Larsen and Toubro Ltd. Were rejected. The said company challenged the order of rejection before the Revisional Authority i.e. Central Government which passed orders dated 10.7.2003 wherein direction is given to consider application of M/s. Larsen & Toubro Ltd. Alongwith about 196 applications for grant of mining lease and after granting an opportunity of hearing to all the applicants. However, BPSL is outside the 196 applications that were to be considered afresh.

(d) M/s. Larsen and Toubro Ltd has challenged the aforesaid orders of the Central Government by filing Writ Petition in the High Court which was dismissed by the Single Judge of Delhi High Court. Appeal thereagainst was dismissed by the Division Bench on 3.7.2012. Order of the Division Bench of the High Court is challenged by filing SLP (C) NO. 33812 of 2012 in which notice has been issued and as the matter is sub-judice in those proceedings it is difficult to pass any orders qua BPSL at this stage.

(e) It is further pointed out that in the case of Sandur Mangnese (Supra) this Court has considered the provisions of Section 11(4) of the MMDR Act and has concluded that all applications filed over areas notified under Rule 59(1) of the Mineral Concession Rules, 1960 deserve simultaneous consideration. As per the mandate of Section 11(4) of the MMDR Act, the State Government may grant a mining lease over a notified area to such one of the simultaneous applicants after considering the matters specified in sub-section (3) of Section

11. The process of simultaneous consideration of the applications filed over Khajhurdihi R.F. In Sundergarh and Rakma, Marsuanand Tiriba of Keonjhar district had remained stalled due to the various stay orders passed in litigations concerning such area. Subject to the orders, if any, passed by this Hon'ble Court in this application, the process of simultaneous consideration of applications

will take considerable time in view of the large number of overlapping applications over the areas in question. Each of these applicants is required to be given an opportunity of personal hearing and credentials of these applicants are required to be evaluated for assessment of relative merits in terms of Section 11(3) of the MMDR Act.

19. It is thus, argued that the developments narrated above and the statutory mandate embodied in Section 11(4) of the MMDR Act, 1957 have come in the way of the Respondent State in implementing the final order and judgment dated 14.3.2012 in so far it relates to the Keora area of Sundergarh district. It is also sought to be argued that the question of entitlement of the petitioner to the recommendation of mines in the Keora area, which are almost entirely covered under notification issued under Rule 59(1) of MC Rules, 1960 with specific reference to Sections 11(4) and 11(3) of the MMDR Act was not raised in the Writ Proceedings/ Civil Appeal. During the course of the implementation of the order of this Hon'ble Court dated 14.3.2012 passed in Civil Appeal No. 2790 of 2012, the Respondent No. 1 is faced with the difficulties with regard to the Keora area as enumerated above. Hence, this application for appropriate directions.

20. The question is as to whether such a plea can be raised to avoid implementation of the directions contained in the judgment? Our answer is in the negative, having regard to the categorical and authoritative principle of law enunciated by various judgments of this Court. From the reading of these judgments one can comfortably get a complete answer to the so-called difficulties feigned by the State Government/ Contemners.

21. First judgment which needs to be noticed is in the case of T.R. Dhananjaya v. J. Vasudevan; (1995) 5 SCC 619. The following discussion contained in the said judgment squarely applies here:- 10. When this order was passed, what remained for the respondent was only implementation of the order passed by this Court in furtherance of the action taken thereunder by the Corporation. It is now clear that instead of implementing the order, an attempt has been made to circumvent the same and deny the benefits to the petitioner. As stated earlier, the petitioner is a Corporation employee and the stand of the Government appears to be to give benefit to their employees. So, an attempt has now been made to get into the rule position and to find whether the petitioner is eligible to be considered for promotion to the post of Executive Engineer, Superintending Engineer and Chief Engineer. It is now stated that

according to the rules the petitioner would be eligible only as superintending engineer and not as Chief Engineer. When direction was given in LA. 3 of 1993, Government was a party to the proceedings and it was never brought to our notice that the petitioner was not eligible. On the other hand, the Division Bench of Karnataka High Court upheld the right of the petitioner which became final.

> 11. Question is whether it is open to the respondent to take at this stage this volte-face step. It is seen that all through Government was a party, when the direction was given in LA. No. 3 filed by the petitioner, it was not brought to out notice that the petitioner was not eligible for promotion, in contradiction with Dasegowda, or any other. When the claim inter se had been adjudicated and the claim of the petitioner had become final and that of Dasegowda was negatived, it is no longer open to the Government to go behind the order and truncate the effect of the orders passed by this Court by hovering over the rules to get round the result, to legitimise legal alibi to circumvent the orders passed by this Court. Thus, it is clear that the concerned officers have deliberately made concerted effort to disobey the orders passed by this court to deny the benefits to the petitioner. So, we are left with no option but to hold that the respondent has deliberately and wilfully, with an intention to defeat the orders of this Court, passed the impugned order.

22. Another judgment cited at the bar is Prithawi Nath Ram v. State of Jharkhand and Others; (2004) 7 SCC 261. Para 8 of the said judgment makes the following reading:

> 8. If any party concerned is aggrieved by the order which in its opinion is wrong or against rules or its implementation is neither practicable nor feasible, it should always either approach the court that passed the order or invoke jurisdiction of the appellate court. Rightness or wrongness of the order cannot be urged in contempt proceedings. Right or wrong, the order has to be obeyed. Flouting an order of the court would render the party liable for contempt. While dealing with an application for contempt the court cannot traverse beyond the order, non-compliance with which is alleged. In other words, it cannot say what should not have been done or what should have been done. In cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt

> proceedings. The same would be impermissible and indefensible. In that view of the matter, the order of the High Court is set aside and the matter is remitted for fresh consideration. It shall deal with the application in its proper perspective in accordance with law afresh. We make it clear that we have not expressed any opinion regarding acceptability or otherwise of the application for initiation of contempt proceedings.

23. This very principle has been reiterated by in Bihar Finance Service H.C. Coop. Soc. Ltd. v. Gautam Goswami and Ors.; (2008) 5 SCC 339 in the following words:

> 32. While exercising the said jurisdiction this Court does not intend to re-open the issues which could have been raised in the original proceeding nor shall it embark upon other questions including the plea of equities which could fall for consideration only in the original proceedings. The Court is not concerned with as to whether the original order was right or wrong. The court must not take a different view or traverse beyond the same. It cannot ordinarily give an additional direction or delete a direction issued. In short, it will not do anything which would amount to exercise of its review jurisdiction.

24. We cannot lose sight of the fact that there is a judgment, inter parties, which has become final. Even when the Civil Appeal was being heard, certain other parties claiming their interest in these very lands had moved intervention applications which were dismissed. At that time also it was mentioned that there are 195 applicants. However, notwithstanding the same, this Court issued firm directions to the State Government to recommend the case of the petitioners for mining lease in both the areas. In view of such categorical and unambiguous directions given in the judgment which has attained finality, merely because another judgment has been delivered by this Court in Sandur Manganese case, cannot be a ground to undo the directions contained in the judgment dated 14.3.2012. In so far as law laid down in Sandur Manganese (Supra) is concerned, that may be applied and followed by the State Government in respect of other applications which are still pending. However, that cannot be pressed into service qua the petitioner whose rights have been crystallised by the judgment rendered in its favour. It cannot be re-opened, that too at the stage of implementation of the said judgment.

25. We would like to place on record the arguments of learned Senior Counsel for the

petitioner that the total area under notification is 731.67 sq. kms. and out of this 406 sq. km. is yet to be allotted. The area which comes to the share of the petitioner under MOU is 13.91 sq. km. which is barely 3 percent of 406 sq. km and, therefore recommendation by the State Government in favour of the petitioner cannot be stalled or put to naught only on the basis of inchoate applications, fate whereof is yet to be decided. It is also pointed out that in so far as the petitioners in other writ petitions are concerned area claimed by them is not overlapping with the petitioner's area. However, it may not even be necessary to go into these contentions in detail. Once we hold that the respondents are bound to implement the direction contained in judgment dated 14.3.2012, in so far as the State Government is concerned, it is obliged to comply therewith and such matters, alongwith other relevant considerations, can be left to the wisdom of the Central Government while taking a decision on the recommendation of the State Government.

26. In so far as intervention applications by Tatas and LNT are concerned these are dismissed as non maintainable, in view of law laid down in by this Court in Supreme Court Bar Association v. Union of India & Anr.; (1998) 4 SCC 409;

> 42. The contempt of court is a special jurisdiction to be exercised sparingly and with caution whenever an act adversely affects the administration of justice or which tends to impede its course or tends to shake public confidence in the judicial institutions. This jurisdiction may also be exercised when the act complained of adversely affects the majesty of law or dignity of the courts. The purpose of contempt jurisdiction is to uphold the majesty and dignity of the courts of law. It is an unusual type of jurisdiction combining the jury, the judge and the hangman and it is so because the court is not adjudicating upon any claim between litigating parties. This jurisdiction is not exercised to protect the dignity of an individual judge but to protect the administration of justice from being maligned. In the general interest of the community it is imperative that the authority of courts should not be imperilled and there should be no unjustifiable interference in the administration of justice. It is a matter between the court and the contemner and third parties cannot intervene. It is exercised in a summary manner in aid of the administration of justice, the majesty of law and the dignity of the courts. No such act can be permitted which may have the tendency to shake the public confidence in the fairness and impartiality of the administration of justice.

27. As a consequence, we hold that the Respondents/ Contemners are in contempt of orders dated 14.3.2012 passed by this Court in not complying with the directions in respect of Keora area. However, we are giving one final opportunity to them to purge the contempt by transmitting requisite recommendations to the Central Government. It would be for the Central Government to consider the said recommendations on its own merits and in accordance with law. In case the recommendation is sent within one month from the date of copy of receipt of this order, we propose not to take any further action and the respondents/ contemners shall stand discharged from this Contempt Petition. However, in case the respondents do not purge in the manner mentioned above, it would be open to the petitioners to point out the same to this Court by moving appropriate application and in that event the Contemners shall be proceeded against.

28. With this, I.A. No. 14 in C.A. NO. 2790 of 2012 and I.A. No. 2 in I.A. NO. 14 in C.A. NO. 2790 of 2012 also stand disposed of. Writ Petitions

29. In so far as three writ petitions are concerned we need not go into the detailed arguments advanced by Counsel for the petitioners in those petitions. As already noted above, for their own reasons all the three petitioners pray that the same directions as given in favour of BPSL in judgment dated 14.3.2012, be passed in their cases as well. This they claim on the basis of parity with BPSL. However, we are constrained to hold that, on the basis of such an argument, they cannot approach this court directly under Article 32 of the Constitution by filing writ petitions. It has already been authoritatively determined that no fundamental right of the petitioners is violated. No fundamental right is violated by non-granting of mining lease. (See (2012) 11 SCC 1 and (1973) 1 SCC 584).

30. That apart, there are few other aspects, aptly pointed out by Mr. L. Nageswara Rao, learned ASG, which come in the way of maintainability of the instant petitions. He, inter alia, submitted that atleast in respect of applications which are still pending and yet to be decided, judgment in Sandur Manganese (Supra) shall have to be applied as it does not remain virgin area, which was the position when the case of BPSL was decided. He had made various other submissions on merit as well. Without going into all these issues, we dismiss these petitions giving liberty to the petitioners to approach the High Court in the first instance and/ or any other forum which is available, as per

law. We make it clear that in so far as these petitions are concerned we have not dealt with the issues on merits. Wherever the petitions are filed, it would be open to the said forum to deal with the question as to whether the petitioners would be entitled to the benefit of judgment dated 14.3.2012 passed in the case of BPSL or not. All other issues are also kept open to be agitated in those proceedings. Writ petitions are dismissed with liberty as aforesaid.