

SUPREME COURT OF INDIA

Samaj Parivartana Samudaya & Ors.

Vs.

State of Karnataka & Ors.

WP.(Civil)No.562 of 2009

(Ranjan Gogoi,J., Prafulla C.Pant and A.M.khanwilkar,JJ.,)

01.09.2016

JUDGMENT

Ranjan Gogoi,J.,

1. This application has been filed by the Karnataka Iron and Steel Manufacturers Association seeking the following reliefs:-

“a) Allow the instant application and direct NMDC to restrain from adopting differential pricing mechanism for the iron ore sold in the e-auction in the State of Karnataka.

b) Direct the CEC/Monitoring Committee to fix the floor price of iron ore on realistic grounds and to ensure that NMDC does not take undue advantage of acute shortage of iron ore availability in the State of Karnataka.

c) Pass any such further orders/directions which this Hon'ble Court may deem fit and proper in the interest of justice.”

2. Specifically it is contended on behalf of the applicant-Association that the NMDC had all along been fixing the floor price/sale price by adopting PAN India Uniform pricing. However, since April, 2016 by taking advantage of an increased demand a differential pricing policy has been adopted so far as State of Karnataka is concerned and the identical floor price/sale price that was prevailing in respect of the States of Chhattisgarh and Karnataka has been altered and the floor price for Karnataka has been increased. Hence the prayers made.

3. Comments of the C.E.C. on the prayers made in I.A. No.259 of 2016 have been called for and received. The stand of the NMDC and the State of Karnataka has also been submitted in writing. One M/s. Vedanta Limited, a lessee of a 'B' category mine, has filed an application for permission to file reply to I.A. No.259 and has opposed the prayers made therein.

4. The response of the C.E.C. to the said application filed by M/s. Vedanta Limited has also been duly received and considered.

5. By our previous orders passed in the Writ Petition (C) No.562 of 2009 titled *Samaj Parivartana Samudaya & Ors. vs. State of Karnataka & Ors.*, out of which these miscellaneous matters/applications have arisen, we had held that the issue of base price should be left to be decided by the concerned lessee. This has been affirmed in our final order dated 18.04.2013 disposing of the Writ Petition [paragraph 7(E)]. A somewhat similar prayer made by the present applicant-Karnataka Iron and Steel Manufacturers Association to tag/fix the base price to the sale price fixed by the NMDC in a situation where private leaseholders were artificially hiking their prices, was rejected by this Court on 24.02.2014 in I.A.No.209 with the following order:

“The grievance of the applicants is that the leaseholders are jacking up the base price of iron ore and as a result the industrial consumers of iron ore are suffering a lot of prejudice. We find from the judgment of this Court in *Samaj Parivartan Samudaya v. State of Karnataka and Ors.* that the lessees have been given the right to fix the base price. Hence, we are not inclined to pass any orders on this application filed by the applicants.”

6. The above apart, it is the stand of the NMDC before the Court that the base price/floor price fixed by it has been determined by market conditions and despite the higher price in Karnataka than in Chhattisgarh, the cost of landing in Karnataka is lower than in Chhattisgarh.

7. The C.E.C. in its response has indicated that as NMDC is working under a special dispensation granted by this Court, until such dispensation continues it should not be allowed to resort to dual pricing. While it is correct that the special dispensation granted to NMDC by this Court cannot continue in perpetuity and the regulatory measures prescribed by this Court for other leaseholders must also apply to NMDC, the working of its leases by NMDC under the special dispensation, by itself, cannot be a legitimate ground for not resorting to a dual price mechanism if the same is dictated by market forces. There is nothing in the report of the C.E.C. to indicate otherwise. We, therefore, do not accept the said part of the recommendation of C.E.C. The issue of continuity of the special dispensation in favour of NMDC will be considered in due course.

8. Insofar as the statements made on behalf of M/s. Vedanta Limited are concerned, all we would like to observe, at this stage, is that the inability of M/s. Vedanta Limited to sell the output from its leases, as expressed, could very well be because of the pricing patterns adopted by it. Inability to sell on account of higher prices cannot be a ground for export of the mineral, at least at this stage of developments pursuant to the final order dated 18.04.2013. Permission for export must be governed by norms and parameters of general application as distinguished from ad hoc decisions in individual cases. Until such guidelines are framed, the prayer of M/s. Vedanta Limited for export of its iron ore cannot be granted.

So far as issue of framing of guidelines/norms for exports are concerned, the same will be dealt with separately at an appropriate time and stage. Consequently and in light of the foregoing, I.A. No. 259 is dismissed.

9. Shri Shyam Divan, learned amicus curiae, may at an appropriate stage, mention the matter so far as the issues relating to continuance of the special dispensation in favour of NMDC and norms to govern exports are concerned.

I.A. No.263 IN I.A.NO.259

10. In view of the dismissal of the I.A. No.259 of 2016, no separate orders will be called for on I.A. No.263 of 2016 and is dismissed accordingly.

Judgment Referred.

¹(2013) 8 SCC 0154