

Karnataka EMTA Coal Mines Limited, Bangalore v. Union of India

Writ Petition Nos. 19823-24 of 2015

High Court

04 October 2017

Bench: Subhro Kamal Mukherjee, P.S. Dinesh Kumar

Citation: 2017 Indlaw KAR 6232

Summary: Constitution - Coal Mines(Special Provisions) Act, 2015, s. 3(1)(n) - Constitutional validity of provision - Petitioner filed instant petitions challenging constitutional validity of Explanation to s. 3(1)(n) of Act for declaration that s. 3(1)(n) of Act refers to no party other than allottees, who have been allotted mines by Union as contemplated in judgment in Manohar Lal Sharma v. Principal Secretary and others, 2014 Indlaw SC 553, for declaration that Respondents were not entitled to recover additional levy from any person other than original allottees, restraining Respondents to recover additional levy amount from Petitioners, and for quashing of various orders of demand made by Respondent Nos. 1 to 4.

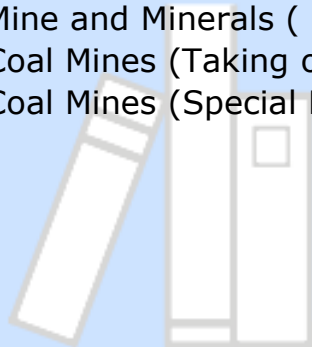
Issue: Whether, explanation to s. 3(1)(n) of Act is ultra-vires the constitution.

Judgment: Held, courts have generally opted to give purposive construction to statute and save them. Useful reference may also be made to observations of Lord Staughton in BBC Enterprises v. Hi-Tech Xtravision reported in 1990(2) All ER 118 @ 123, holding that Courts should now be very reluctant to hold that Parliament has achieved nothing by language it used, when it is tolerably plain what Parliament wished to achieve. If impugned Act is viewed in backdrop of Manohar Lal Sharma v. Principal Secretary and others, 2014 Indlaw SC 553, there

remains no ambiguity, that explanation to s. 3(1)(n) of Act is added to give effect to judgment of SC to recover additional levy from those, upon whom 'windfall profits' were showered. Portion of legislation under challenge, is certainly in consonance with letter and spirit of Manohar Lal Sharma v. Principal Secretary and others, 2014 Indlaw SC 553 holding that faulty procedure of allotment has resulted in unfair distribution of national wealth and sufferance of common good and public interest. Therefore, it is intra vires the Constitution. Petitions dismissed.

Legislation Cited:

1. Coal Mines (Special Provisions) Act, 2015
2. Coal Mines Nationalization Act, 1973
3. Coal Mines (Special Provisions) Ordinance, 2014
4. Coal Mines (Special Provisions) Second Ordinance, 2014
5. Mine and Minerals (Development and Regulation) Act, 1957
6. Coal Mines (Taking over of Management) Act, 1973
7. Coal Mines (Special Provisions) Bill 2014



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