

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**W.P.(C) No.10260 of 2022**

***NALCO Officers' Association,*** .... ***Petitioner***  
***Angul***

Mr. Subir Palit, Advocate  
Ms. Pami Rath, Advocate

*-versus-*

***Union of India and others*** .... ***Opp. Parties***

Mr. P.K. Parhi, ASGI  
Mr. Debaraj Mohanty, Advocate for MCL

**CORAM:**  
**THE CHIEF JUSTICE**  
**JUSTICE R.K.PATTANAİK**

**ORDER**  
**25.04.2022**

**Order No.**

02. 1. Pursuant to the order passed by this Court on 22<sup>nd</sup> April, 2022, East Coast Railway (ECoR) supplied one rake on 23<sup>rd</sup> April for carrying the coal from the pit head of MCL at Bharatpur and Talcher to NALCO's Smelter plant at Angul and four rakes on 24<sup>th</sup> April, 2022. It is stated that today three rakes are being arranged for the purpose.

2. Ms. Pami Rath, learned counsel appearing for the NALCO points out that the coal supply from MCL has been reduced 60% of the contracted demand and NALCO is, in fact, making up the remaining required quantity by purchasing it through e-auction. She states that NALCO's Smelter plant totally depends on its Captive Power Plant (CPP) which is a thermal power plant which in turn depends entirely on coal supply

from MCL. If the CPP does not generate enough power to keep the smelter plant going, it will have to shut down. She points out that the NALCO has exports orders which have to be met and which have potential for generating huge revenue for the country. The same crisis faces NALCO's Alumina refinery at Damanjodi. It is stated that right now, the stocks available with the NALCO can keep its units going only for three more days. It is therefore earnestly pleaded that MCL should be asked to restore the full supply of coal as agreed between the parties so that the smelter plant does not shut down.

3. Mr. Debaraj Mohanty, learned counsel appearing for MCL, on the other hand, seeks modification of the interim order passed by this Court on the ground that MCL should not be compelled to supply only to NALCO through rakes as MCL is required to supply coal to power plants as well. He urges that NALCO should be asked to lift coal as per the reduced agreed quantity by other modes, viz., by road and the 'Merry Go Round'(MGR), which is an exclusive dedicated rail line connecting the coalmine pit head with NALCO's Smelter plant. Both Mr. S. Palit, learned counsel appearing for the Petitioner and Ms. Pami Rath, learned counsel appearing for NALCO inform the Court that the MGR is not fully functional and transporting by road would be both cumbersome and hazardous.

4. Meanwhile, the Court has on its board today two more petitions, i.e. W.P.(C) No.10423 of 2022 by the Utkal Chamber of Commerce and Industry Ltd. and the other W.P.(C) No.10424 of 2022 by the District Small Scale Industries Association. Both these petitions seek to espouse the cause of the Medium and Small Scale Manufacturing Enterprises (MSMEs), who are likely to be severely affected in a cascading manner if the major alumina and smelter plants in Odisha cease to function because of shortage of coal supply which in turn will affect the power supply.

5. Since the essential dispute concerns two Central Government Public Sector Undertakings (PSUs) i.e. MCL on the one hand and NALCO on the other, and also involves the role of the Railways which is the third Central Government undertaking in the picture, the Court considers it appropriate to direct that the Secretary Power, the Secretary Coal, the Secretary Mines and the Chairman, Railway Board will sit together in virtual or hybrid mode with the Managing Directors (MDs) of MCL and the NALCO not later than 6 p.m. tomorrow i.e. 26<sup>th</sup> April 2022 to find the way of resolving the crises with a view to ensuring that the smelter plant of NALCO at Angul and make arrangement put in place so that the smelter plant of NALCO at Angul and its Alumina refinery at Damanjodi are not pushed to the brink of a shut down. The minutes of the deliberations of the above meeting will be placed before the Court on the next date.

6. List on 27<sup>th</sup> April 2022 at 2 pm.

7. Till then, the interim arrangement in terms of our order dated 22<sup>nd</sup> April 2022 will continue.

8. Mr. Parhi will arrange to communicate by e-mail this evening itself this order to the concerned Secretaries and the Chairman, Railway Board.

9. Issue urgent certified copy of this order be issued as per rules.

