

ITEM NO.55

COURT NO.12

SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s)(Civil) No(s). 2419/2019

M/S PLR PROJECTS PVT. LTD.

Petitioner(s)

VERSUS

MAHANADI COALFIELDS LIMITED & ORS.

Respondent(s)

(FOR ADMISSION and IA No.152015/2019-EX-PARTE STAY)

Date : 08-11-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL

HON'BLE MR. JUSTICE K.M. JOSEPH

Learned counsel for the parties:

Mr. K.K.Venugopal,AG

Mr. Vikas Singh,Sr.Adv.
Mr. Kaushik Poddar, AOR

Mr. K.V.Vishwanathan,Sr.Adv.
Mr. Dhananjay Bhaskar Ray,Adv.
Dr. Kedar Nath Tripathy,AOR

Mr. Ashok Parija,Advocate General
Mr. Shibashish Misra,Adv.
Mr. Debakanta Mohanty,Adv.
Mr. S.Debabrata Reddy,Adv.

Mr. S.N.Bhat, AOR
Mr. Priyank Jain,Adv.
Mr. D.P.Chaturvedi,Adv.

Mr. Manan Kumar Mishra,Sr.Adv.
Mr. S.Prabakaran,Sr.Adv.
Mr. Ram Sankar,Adv.
Mr. Vasantha Kumar,Adv.
Mr. Suvin Kumaran,Adv.

Dr. Tahali Charan Mohanty,Sr.Adv.

Mr. Sibor Sankar Mishra, AOR
Mr. Niranjana Sahu,Adv.

Mr. Gopal Krishna Mohanty,Adv.

UPON hearing the counsel the Court made the following
O R D E R

We are happy to note that the resolution to go on strike has been withdrawn thus giving access to justice to the common man for which this institution exists. Qua the petitioner in question, the chapter is really over because the appearance of his counsel before the High Court was facilitated.

We have perused the affidavit filed by the Registrar of the Orissa High Court and the annexures to the same. The situation is alarming. The loss of working days in the High Court in 2018 was 65.5 out of 210 days and in 2019 up to date 18 working days have been lost. The position is even more alarming insofar as the districts are concerned and in some of the districts the institution of Courts have been brought to a complete standstill. These districts are reflecting zero working days. The effect is that there is no judicial institution available for persons to seek redressal and this is an invitation to chaos.

Insofar as the erstwhile Chairman of the Orissa State Bar Council and the President of the High Court Bar Association are concerned, they are before us and state that they have withdrawn the strikes and will ensure the continuity of the working of the Courts. We are also informed that there was apparently some misunderstanding and there is no coordination committee nor can any resolution be passed against Mr. Sibho Sankar Mishra who is assisting this Court.

We have impressed upon the Chairman and Members of the Bar Council of India who are present here that they are senior members and must ensure that discipline is observed among the advocates so as to ensure that the working of the Courts is not brought to a standstill. We have given example of this Court where if really the advocates feel that there a cause to protest, they wear white bands. The advocates bring access to justice to the common man and thus, there can be no question of advocates abstaining from work, an aspect repeatedly re-emphasized by this Court that it would be contemptuous in view of the judgments passed by the Court but more importantly would go contrary to the oath of profession of the advocates itself. It is for the advocates to ensure that this discipline is adhered to. The Bar Council of India has referred to certain resolutions passed by it to enforce discipline in the Bars *inter alia* dated 26.10.2019. We put to them that nothing prevents them from following the resolutions and enforcing discipline.

Some discussions took place and suggestions have been made by Mr. K.K. Venugopal, learned Attorney General, Mr. Vikas Singh and Mr. K.V. Vishwanathan, learned senior counsels who are representing the various parties and we have called upon them to give relevant inputs to the Bar Council and a path be chartered so that such situations do not arise in future. We certainly expect the High Court of Orissa to continue working and lawyers not to abstain but all district Courts should at least now start working forthwith and the Bar Council of India to enforce the same by taking action, if the situation so arises, against any delinquent advocates.

We would expect all the concerned before us to give us the

future course of action and as to what directions are solicited from us to ensure improvement in the future working of the judicial institutions from the perspective of the Bar.

An aspect which is pointed out by Mr. Vikas Singh is also that at the High Court level there are number of vacancies which in turn creates difficulty in tackling the workload and thus creates resentment amongst the advocates on their matter not being taken up. The Bench presided by Hon'ble Chief Justice of India has taken initiative to see that vacancies in subordinate Courts are filled in and there is upgradation of infrastructure. Directions in this behalf have been issued from time to time. One can be sanguine that this should by next year produce results with most of the vacancies filled up and appropriate infrastructure made available to the subordinate Courts. However, this in turn is likely to produce a greater output which would be have to be dealt with by the High Court. Thus, the need of the hour is that even the High Court vacancies are filled in at the earliest. As a matter of fact there are about 40% vacancies and in 2018 only 13 more judges than retirements were appointed while in 2019 the retirements are 20 more than appointments as on 1.10.2019 with 18 more vacancies to arise this year and thus, the prospect of lesser judges as on 1.1.2020 than on 1.1.2018!

Learned Attorney General submits that he will discuss the matter at the appropriate level so that the time period taken for processing the recommended names can be shortened. The convention laid down is that an endeavour should be made that recommendations for vacancies are sent six months in advance. This is an aspect

which the Chief Justices of the High Courts would look into. This period of six months arises from the expectation that the said period would be enough for processing the names from the recommendation stage till appointment. Thus, sending names six months in advance would be meaningful only if the process till appointment is complete within six months which is a work the Government must attend to.

We do believe that the learned Attorney General wears many hats-as an Attorney General, as former President of the Supreme Court Bar Association and as one of the senior most and respected members of the Bar. We would expect him to do justice to all the hats he wears to see that the system is strengthened by prompt appointment of Judges at all levels.

We exempt the personal appearance of the President of the High Court Bar and the State Bar Council Chairman with the hope that they will take necessary steps and truly implement what we have observed today.

We expect the Chairman of the Bar Council of India and the members as also the senior counsels who are present today to continue to assist us in the matter.

Application for stay stands disposed of.

List on 06.12.2019 for further directions.

(ASHA SUNDRIYAL)
COURT MASTER

(ANITA RANI AHUJA)
COURT MASTER