HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THURSDAY,THE THIRTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT APPEAL NOs: 116 AND 117 OF 2025

WRIT APPEAL NO: 116 OF 2025

Writ Appeal under clause 15 of the Letters Patent Preferred Against Order Dated 28/10/2024 Passed in WP No 28706 of 2024 on the file of the High Court.

Between:

M/s. 1DL Explosives Limited, IDL Access Road, Kukatpally, Hyderabad, Telangana - 500072 Represented by its authorized signatory Mr. D. Sandeep Kumar, S/o. Samba Siva Rao Aged 39 years

...APPELLANT

AND

1. Singareni Collieries Company Limited, Represented by its General Manager, Corporate Material Procurement Department, Bhadradri Kothagudem - 507101
2. M/s. Keltech Energies Pvt. Ltd, 7th Floor, Embassy Icon, No.3, Infantry Road, Banglore, Karnataka, India - 560001
3. Ideal Industrial Explosives Ltd., 2nd floor, Idea Towers, Sy No 115, Opp BHEL Enclave Akbar Road Tadband Secunderabad 500009

...RESPONDENTS

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Impugned Judgment dated 28.10.2024 passed by the Ld. Single Judge in W.P. No. 28706 of 2024, including by suspending the disqualification order dated 07.10.2024 issued by the Respondent No. 1, pending the disposal of the above Appeal

4. Shorn of unnecessary details, the relevant facts which have given rise to the litigation are that on 23.07.2021 the Coal India Limited (CIL) issued a tender for supply of bulk explosives to the subsidiaries of CIL. Accordingly, the bid of the appellant for the said tender was accepted. On 12.03.2024, the CIL issued a show cause notice to the appellant stating that pursuant to a complaint being received from the Ministry of Coal, Mines and Parliamentary Affairs, it was found that the appellant did not meet the necessary criteria to be classified as Class-I Local Supplier and the response of the appellant was sought for in this regard.

5. In turn, on 03.05.2024, the appellant filed a reply to the show cause notice. On 02.07.2024, the CIL issued an order, whereby the appellant was banned for awarding of any contract from CIL or its subsidiaries for a period of two years, as the appellant was found to have suppressed the information and wilfully withheld the information at the time of submission of bid. The appellant filed a review application on 18.07.2024 before the Chairman of the CIL

seeking review of the decision dated 02.07.2024. The review application of the appellant is pending consideration before the Chairman of the CIL. The respondent (Singareni Collieries Company Limited) issued tenders on 27.03.2024 for procurement of SME Explosives and other accessories.

6. Learned Senior Counsel for the appellant submits that the appellant submitted its bid and also communicated the aforesaid ban order passed by CIL to the Singareni Collieries Company Limited. On 25.07.2024, the appellant's bid was selected as qualified for the e-reverse auction to be held on 31.07.2024. The Singareni Collieries Company Limited issued a Corrigendum dated 28.08.2024, whereby the entire tender process pursuant to the previous tender dated 27.03.2024 was dropped due to administrative reasons. A fresh/revised tender dated 24.09.2024 was issued with a specific condition i.e., Clause 17.0(b). The appellant, with an apprehension that in the teeth of Clause 17.0(b) of revised tender its bid will not be considered, filed W.P.No.27029 of 2024. On 30.09.2024, the learned Single Judge passed an interim order in the

said writ petition directing the Singareni Collieries Company Limited to consider the bid to be submitted by the appellant in terms of Clause 17.0 of the Commercial Terms and Conditions of the subject tender and take a decision in the matter. On 07.10.2024, the appellant was disqualified from participating in the e-reverse auction on the ground that the CIL had issued a banning order in relation to the appellant. Dissatisfied with the said disqualification order, the petitioner filed W.P.No.28706 of 2024. Both the writ petitions were clubbed together. The learned Single Judge passed the interim orders on 17.10.2024 and 22.10.2024 restraining the Singareni Collieries Company Limited from finalizing the bids. Both the writ petitions were finally heard and decided by the common order dated 28.10.2024. This common order is the subject matter of challenge in these writ appeals.

7. The learned Senior Counsel for the appellant briefly raised two contentions. Firstly, he submits that Clause 17.0 makes it obligatory for the Singareni Collieries Company Limited to consider the impact of any banning by

any other company/subsidiary. Thus, there should have been application of mind on the factum of banning the appellant which was duly disclosed by the appellant in its bid. By taking this Court to certain paragraphs of the counter, learned Senior Counsel submits that the Singareni Collieries Company Limited has not considered the impact of banning by the CIL. There should have been an independent application of mind on the said aspect and after exercising discretion in a judicious manner, decision should have been taken. In absence thereof, the decision making process is polluted.

8. Secondly, it is submitted that after the impugned decision by the learned Single Judge, the Singareni Collieries Company Limited has issued the contract in favour of certain contractors. Since the tender process was polluted, the same be directed to be reconvened within a period of 2-3 months and till such time, the present successful bidders may continue and thereafter, if the appellant succeeds, it may also be given the contract.

9. Learned Additional Advocate General appearing for the Singareni Collieries Company Limited submits that the appellant's claim was considered, which is evident from paragraph 14 of the counter filed before the learned Single Judge in W.P.No.28706 of 2024, which reads thus:

> "14. In reply to Para No. 16 (c) it is submitted that, the allegations made by the petitioner are false and denied by the respondent No.1, the petitioner may be put to strict proof of the same. That the petitioner was well aware of the terms and conditions of the tender before participating the same. It is pertinent to mention that Clause 3.0 does not preclude, the writ petitioner from participating in the tender. That vide order dated 30.09.2024 in W.P.No. 27029 of 2024 this Hon'ble Court directed the respondents to consider the bid of the petitioner in terms of Clause 17.0 of Commercial Terms and Conditions of the subject tender. That the petitioner has already uploaded the banned certificate from CIL in compliance of terms and conditions. Hence, further technical evaluation of the firm is not done as no shortfall documents are sought considering the firms present banned status and the offer submitted by the petitioner was not considered and was disqualified."

10. It is submitted that there is no flaw in the decision making process. Considering the nature of the activity carried out by the Singareni Collieries Company Limited

and the importance of supplying bulk explosives, a public interest is involved and after completion of the tender process and issuance of contracts, it will not be proper to put the clock back or initiate a fresh proceeding. A document bearing Ref No:CRP/MP/Sec.13/Law/2025/444, dated 30.01.2025, was also supplied by the learned Additional Advocate General to contend that nine contracts have been given pursuant to the impugned tender process. Thus, no interference may be made.

11. The learned Senior Counsel for respondent No.3 in W.A.No.116 of 2025 submits that the writ appeal is filed belatedly. Although the delay has been condoned, it cannot be forgotten that interference in contract matters can be made with circumspection. Once the contracts have already been granted, it will not be proper to interfere in the writ appeals.

12. The parties have confined their arguments to the extent indicated above and no other point is pressed.

13. We have heard the parties at length and perused the record.

14. Clause 17.0 of the tender document on which the whole case is founded upon reads thus:

> "17.0 Banned and delisted Suppliers:
>
> a) The bidders would give a declaration that they have not been banned or de-listed by any Government or quasi-Government agencies or PSUs. If the bidder has been banned by any Government or quasi-Government agencies or PSU, this fact must be clearly stated and it may not necessarily be a cause for disqualifying him. If declaration is not given, the bid will be rejected as non-responsive.
>
> b) After submitting the bid and while tender is in progress, if any bidder who submitted his bid is banned/de-listed by any Government or quasi-Government agencies or PSUs, appropriate legal opinion will be obtained and tender will be processed accordingly.
>
> However the SCCL management reserves the right to take appropriate decision in above cases."
>
> (Emphasis Supplied)

15. Learned Senior Counsel for the appellant submits that the right was reserved with the management of the Singareni Collieries Company Limited to take appropriate decision in the cases of delisting/banning. Since the

banning was admittedly disclosed, the said right to take appropriate decision should have been exercised. In paragraph 14 of the counter filed before the learned Single Judge in W.P.No.28706 of 2024 as extracted above, it is shown that a decision has been taken to disqualify the appellant.

16. A careful reading of Clause 17.0 reproduced hereinabove shows that if bidder has been banned by any other body and has disclosed this fact clearly in his bid, as a rule of thumb, SCCL management will not disqualify him. The SCCL management reserves right to take appropriate decision in such eventuality. The language employed in the aforesaid clause shows that it enables the SCCL management to take an appropriate decision in such cases where disclosure of banning is there. The decision taken by SCCL management in the present case is to disqualify the petitioner. At this stage, we are not inclined to put the clock back and direct the Singareni Collieries Company Limited to undertake the entire exercise afresh. The Singareni Collieries Company Limited is serving public

interest. For the smooth production and running of Singareni Collieries Company Limited, supply of bulk explosive is essential. Any interference by us at this juncture, will hamper the activity of the industry and consequently will have an adverse impact on public interest. Thus, in the peculiar facts of these cases, we are not inclined to interfere in the matter. More-so, after passing of impugned order, third party rights are created and contracts have been granted to nine (9) contractors and they are not parties before us.

17. This is trite that in exercise of discretionary jurisdiction, this Court may not set aside an illegal order even though it would be lawful to do so.

18. In **Shiv Shankar Dal Mills v. State of Haryana**[1], the Apex Court held as under:

> "6. Article 226 grants an extraordinary remedy which is essentially discretionary, although founded on legal injury. **It is perfectly open for the court, exercising this flexible power, to pass such order as public interest dictates and equity projects.**"
>
> (Emphasis Supplied)

[1] (1980) 2 SCC 437

19. In **Chandra Singh v. State of Rajasthan**[2], the Apex Court held as under:

> "43. Issuance of a writ of certiorari is a discretionary remedy. (See : Champalal Binani v. CIT, (1971) 3 SCC 20: AIR 1970 SC 645).) The High Court and consequently this Court while exercising their extraordinary jurisdiction under Article 226 or 32 of the **Constitution of India may not strike down an illegal order although it would be lawful to do so. In a given case, the High Court or this Court may refuse to extend the benefit of a discretionary relief to the applicant**.
>
> 44. ...This Court in Brji Mohan Gupta case [(2003) 2 SCC 390 : 2003 SCC (L&S) 1741 has also refused to exercise its discretionary jurisdiction in favour of the appellants although the order of the High Court was found liable to be set aside being not in accordance with law."
>
> (Emphasis Supplied)

20. In **Master Marine Services (P) Ltd. v. Metclfe & Hodgkinson (P) Ltd.**[3], the Apex Court opined as under:

> "The court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion

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[2] (2003) 6 SCC 545
[3] (2005) 6 SCC 138

that overwhelming public interest requires interference, the court should interfere."

21. In view of this legal position and peculiar factual backdrop of this matter, we are not inclined to entertain these writ appeals.

22. The writ appeals are accordingly **dismissed**. However, the point raised by the appellant will remain open to be decided in an appropriate case. There shall be no order as to costs.

Interlocutory applications, if any pending, shall stand closed.

SD/-B. SATYAVATHI
DEPUTY REGISTRAR

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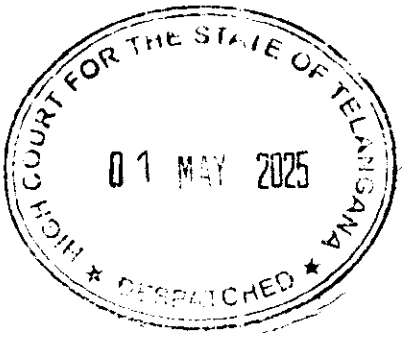
To,

1. One CC to SRI. TARUN G. REDDY Advocate [OPUC]
2. One CC to Ms.D.VENKATA PADMAJA Advocate [OPUC]
3. Two CCs to Additional ADVOCATE GENERAL, High Court for the State of Telangana at Hyderabad. [OUT]
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KKS
BS

HIGH COURT

DATED:13/02/2025



COMMON JUDGMENT

WA.Nos.116 AND 117 of 2025

DISMISSING THE WRIT APPEALS WITHOUT COSTS

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