

COMPANY LAW BOARD  
NEW DELHI BENCH  
NEW DELHI

MENTIONING

CP NO. 61(ND)/2016

CA NO.

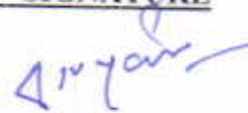
PRESENT: CHIEF JUSTICE M. M. KUMAR  
CHAIRMAN

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NEW DELHI BENCH OF THE  
COMPANY LAW BOARD ON 03.05.2016

NAME OF THE COMPANY: **Punjab State Power Corporation Ltd.**  
Vs.  
**M/s. Panam Coal Mines Ltd & ors.**

SECTION OF THE COMPANIES ACT: 397/398 of Companies Act 1956.

S.NO.	NAME	DESIGNATION	REPRESENTATION	SIGNATURE
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	Mr. Amit Singh Chedha (Sr. Adv.)		PSPCL	 Divyanshu
	Vinod Bhargava (Adv.)		(petitioner)	
	Rajat Khanna (Adv.)			
	Ashok Gupta (Adv.)			
	Divyanshu Aggarwal (Adv.)			
	Manish K. Jha (Adv.)			
	Dilpreet Singh (Adv.)			
	Pranveer Singh (Depy. C.E.)			
	S.K. Bagga (C.E.)			

MR. CHETAN SHARMA, <sup>SR.</sup> ADV.  
MR. PRIYADARSHI BANERJEE, ADV.  
MR. AMIT GUPTA, ADV.

} for R-2   


MS. NALINA MAYEGOWDA, ADV.  
MR. PRAVEEN SEHRAWAT, ADV.  
MS. ARADHANA LAKHTAKIA, ADV.

} for R3 & R6 

P.T.O.

## ORDER

Petition mentioned.

A copy of the petition has already been furnished to the counsel for the respondent No.2 and 3 to 6. I have heard learned counsel for the parties at some length.

Ld. counsel for the petitioner has, inter alia, argued that on account of various terms and conditions in the Joint Venture Agreement (JVA) dated 21.03.2001, the resolution proposed for the EOGM slated for 09.05.2016 cannot be passed because these resolutions would contravene the stipulations and no such resolution should be passed in view of stipulations of JVA mentioned at pages 138 (Clause-B), 139, 145, 146, 148, 149, 155, 156, 157, 158 and 165(4A) etc. Learned counsel has, in nutshell, submitted that no special resolution could be passed by the Board of Directors as the petitioners have been deliberately given 26% of shareholding and for special resolution 75% voting is required whereas respondents have obviously 74%. This is sought to be defeated by calling EOGM on 09.05.2016. It has also been argued that in pursuance of Coal Mines (Special Provisions) Act 2015 the petitioners are not liable to pay the amount of penalty imposed by Hon'ble Supreme Court vide its judgment titled Manohar Lal Sharma v. Union of India (2014) 9 SCC 516. The petitioners had leased coal block for mining purpose to respondent No.1 company and according to Expl. Appended to s.3(1)n of the Coal Mines Act the lease holder has to be regarded as a prior allottee. It is the lease holder who is thus liable to pay. In any case the petitioner has already deposited its share of 26% amounting to Rs.391 crores.

On the contrary ld. counsel for the respondent has, inter alia, argued that according to para 38 of the Supreme court judgment it is the allottee who is liable to pay the penalty in toto and the lease-holder like Respondent No.1 (Paneam Coal Mines Limited) would not be liable to pay. Ld. counsel has placed reliance on the judgment of the Supreme Court wherein the petitioner has requested for waiving the penalty in case of Public Sector Undertakings. In that regard a reference has been

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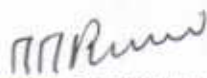


made to the order of the Supreme court dated 08.12.2014 wherein the application Cr.M.P. No.24058 filed by the petitioner was dismissed in which prayer for exemption to pay penalty was made. The respondents have also raised various other issues and has placed reliance on the judgment of the Supreme Court L.I.C. v. Escorts Ltd. (1986)1SCC 264 and argued that there cannot be any stay against convening of E.O.G.M.

Having heard Id. counsel and perusing various averments made in the petition I believe that filing of the written statement in such like cases is extremely necessary as we are dealing with a comprehensive JVA, huge litigation and statutes following the judgment of the Supreme Court. Accordingly Id. counsel for the respondents states that written statement shall be filed within four weeks with a copy in advance to the counsel for the petitioner. Rejoinder, if any, shall be filed within three weeks thereafter with a copy in advance to the counsel opposite.

Ld. counsel for the respondent further states that the meeting on 09.05.2016 shall be held but no effect would be given to the resolution, if any passed, till the next date of hearing subject to just exceptions.

List for further consideration on 07.07.2016 at 2.00 PM.

  
[CHIEF JUSTICE M.M. KUMAR]  
CHAIRMAN

Date: 04.05.2016  
[ravi]