

NOT REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
IA 4 OF 2009**

**IN
CIVIL APPEAL NO. 671 OF 2006**

Industrial Development Corpn. Orissa Ltd. Applicant (s)

Versus

M/s Visa Steel Ltd. & Ors. Respondent(s)

WITH

I.A. NO.4 IN CIVIL APPEAL NO. 672 OF 2006

I.A. NO.4 IN CIVIL APPEAL NO. 673 OF 2006

CIVIL APPEAL NO. 655 OF 2006

ORDER

P. Sathasivam, J.

1) Industrial Development Corporation of Orissa, Ltd. (in short 'IDCOL') filed the above application in Civil Appeal Nos. 671-673 of 2006, disposed of on 04.02.2008, praying for extension of time by another two months for complying with the directions contained in the Judgment.

2) In the said application, after quoting the operative portion of the judgment dated 04.02.2008, the applicant has stated that pursuant to the said directions, the Board of Directors of IDCOL constituted a Committee to consider the bids of the respondents and the State Government approved the constitution of the Committee on 21.05.2008. The Committee consists of:

- (i) Managing Director, IDCOL.
- (ii) Director of Mines, Government of Orissa, Bhubneswar.
- (iii) Regional Controller of Mines, Indian Bureau of Mines, Government of India, Bhubneswar.
- (iv) Additional Secretary to Government, Finance Department, Bhubneswar.
- (v) Additional Secretary to Government, Law Department, Bhubneswar.
- (vi) Representative of Institute of Minerals & Materials Technology, Bhubneswar.
- (vii) General Manager Mines, IDCOL.
- (viii) Deputy General manager (Finance), IDCOL.
- (ix) The Company Secretary, IDCOL.

3) It is the case of the applicant that as per the directions of this Court, the concerned bidders/respondents have

already submitted their revised financial bids within time. By order dated 17.06.2008, this Court extended the time till 15.09.2008 for complying with the directions of this Court. The applicant enumerated various steps that were taken after the said order till the date of filing of the present application. By pointing out those steps/deliberations, the applicant has prayed for extension of time by another two months.

4) While hearing the above application, in view of objection raised by the respondents, particularly, Jindal Strips Ltd., on direction by this Court learned senior counsel appearing for the applicant placed recommendations of the Committee constituted for evaluating the bids for development of Tangarpada Chromite Deposit, in the meeting held on 05.09.2008 & 08.09.2008. Apart from the above recommendations, the applicant has also filed additional affidavit highlighting their stand for extension of time. In the same manner Jindal has also filed reply affidavit disputing the claim of the applicant.

5) We heard Mr. P.P. Rao, learned senior counsel for applicant, IDCOL and Mr. T.N. Andurajuna, learned senior counsel for Jindal Strips Ltd.

6) Before considering the present application for extension of time on second occasion, it is useful to refer the directions issued by this Court in the judgment dated 04.02.2008.

“11. On the sole ground that the High Court had relied upon extraneous materials and has arrived at unfounded conclusions, in normal course we would have set aside the order and asked the High Court to re-consider the matter. But considering the passage of time and more particularly the fact that the advertisement was issued in 2002 and on the basis of materials on record, we dispose of the appeals in the following terms:

1. It shall be treated that the technical bids of all the three parties are valid.

2. The financial bids were submitted about five years back it would be appropriate to permit the parties to submit revised financial bids within three weeks.

3. The appropriate and authorized Committee of IDCOL shall consider the technical bids and the financial bids, keeping in view the parameters of the advertisement, the NIT and the best interest of the State.

12. It is needless to say the Committee examining the bids shall take note of all relevant factors. In case it is considered appropriate and in the interest of the State, it shall be open to the State Government to negotiate with the parties so that the best interest of the State including generation of the revenue of the State and overall development of the State in the relevant fields could be achieved.

13. Since the matter is pending since long it would be desirable for the State Government to ensure that the

technical bids and the revised financial bids to be submitted within three weeks as directed earlier, be evaluated and informed decision taken by end of June, 2008. The observations and conclusions about malafides of the officials and their alleged favoritism stand quashed.

14. The appeals are allowed to the aforesaid extent without any order as to costs.”

7) It is appropriate to point out that only IDCOL has filed an application for extension of time for compliance of the order of this Court dated 04.02.2008. Mr. T.N. Andurajuna, learned senior counsel for Jindal by pointing out the directions in paras 11, 12 and 13 submitted that the present decision of the State Government rejecting the bids of the respondents and authorizing IDCOL to exploit mining with Orissa Mining Corporation (OMC) is not in accordance with the directions of this Court. But Mr. P.P. Rao, learned senior counsel submitted that the decision is well within the directions of this Court and it was taken in the overall interest of the State as observed in the judgment of this Court. At present, we are concerned with the only issue i.e., whether there is any justifiable ground for extension of time as claimed by IDCOL. On going through the report of the Committee, ultimate

decision of the State Government and the details furnished for arriving at such decision, we are inclined to extend the time for carrying out the directions in the order dated 04.02.2008. Inasmuch as, except the application for extension, no other petition or issue pending before us, we are of the view that there is no need to consider the objections raised by the respondents, particularly, Jindal.

8) On going through the materials placed by the applicant, we intend to extend further time and we make it clear that we have not expressed anything either on the conduct of the IDCOL or State Government or the merits of the objection of the Jindal in this application.

9) Without expressing any opinion on the above mentioned issues, we extend the time by 15.03.2010 for compliance. The applications are disposed of accordingly.

.....J.
(P. SATHASIVAM)

.....J.
(H.L. DATTU)

NEW DELHI;

FEBRUARY 1, 2010.

