

PETITIONER:
UNION OF INDIA & ORS.

Vs.

RESPONDENT:
M/S. SHARMA COAL CO.

DATE OF JUDGMENT: 10/05/1996

BENCH:
K. RAMASWAMY, G.B. PATTANAIAK

ACT:

HEADNOTE:

JUDGMENT:
THE 10TH DAY OF MAY, 1996

Present:

Hon'ble Mr.Justice K.Ramaswamy
Hon'ble Mr.Justice G.B. Pattanaik
C.B.Babu, B.Krishna Prasad and P.Parmeshwaran, Advs. for the appellants.

O R D E R

The following Order of the Court was delivered:
Leave granted.

Though the respondents have been served, none appears either in person or through the counsel. We have heard counsel for the appellant.

This appeal arises from the order of the Division Bench of the Guwahati High Court in a batch of writ petitions being Civil Rule No. 1153/89 and batch passed on dated July 30, 1990. The Railway administration had prepared a preferential traffic scheme (PTS), by general order No.71 categorising the priority articles for carriage by railways and allotted different priorities which are made in alphabetic orders A to E. sponsored coal movement was mentioned in Category C priority and priority E would include non-sponsored coal. Subsequently by proceedings dated March 1, 1989 the Railways modified its earlier scheme and issued general PTS Order No.77 with effect from April 1, 1989 under which priorities were redetermined. It would appear that subsequently non-priorities coal item E was deleted from the priority scheme. When the respondents and others challenged its validity on the anvil of Art. 19(1)(g) of the Constitution, the Division Bench of the High Court without disturbing the validity of the order had given direction observing that after all the priorities enumerated in the scheme are exhausted and if the wagons remains unutilised, the unutilised wagons may be kept at the disposal of non-priority articles for carriage. Thus this appeal came to be filed by special leave.

It is seen that in order No.75 priorities A to E were made which included sponsored coal within the meaning of the order and non-sponsored coal within the meaning of the order and non-sponsored coal provided in priority E for allotment of wagon. With regard to non-priority item E, it

subsequently deleted as mentioned in paragraph E of the special leave petition which reads as "the Order No.77 relates to PTS for allotment of wagons which came into force from 16.7.86, but non-sponsored coal referred to in priority E of PTS No.75 was removed". It would thus be seen that non-priority coal came to be removed from the priorities mentioned in Items A to E. Therefore the High Court obviously was of the intention to direct that if after the wagons allotted for movement to priority articles remained available, the same may be allotted for non-priority articles for carriage. We do not think that there is any impediment in the way of administration to give such allotment, instead of keeping them side. It would be in commercial interest of the Railway administration.

The appeal is accordingly disposed of. No costs.

JUDIS