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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 10572/2022 and CM APPL. 30587/2022**

**EMIL MINES AND MINERAL RESOURCES  
LIMITED**

..... Petitioner

Through: Mr. Rajiv Nayar, and Mr. Dayan  
Krishnan, Sr. Advs with Mr. Rishi  
Agrawala, Mr Karan Luthra, Ms.  
Aarushi Tiku and Mr. Pratham  
Agarwal, Advocates. (M:  
9818931119)

versus

**UNION OF INDIA & ORS.**

..... Respondents

Through: Mr. Chetan Sharma, Ld. ASG with  
Mr. Apoorv Kurup, CGSC, Ms.  
Aparna Arun, Ms. Nidhi Mittal, Mr.  
Manish Bhardwaj & Mr. Pranshu  
Dhingra, Advocates for R-1 & 2. (M:  
7903387807)

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WITH

+ **W.P.(C) 10910/2022 and CM APPL. 31788/2022**  
**M/S HINDALCO INDUSTRIES LIMITED**

..... Petitioner

Through: Mr Amit Sibal, Sr. Adv., with Mr.  
Ashish Prasad, Mr. Kaustubh Mishra,  
Mr. Darpan Sachdeva & Mr. Mayank  
Bhargava, Advs. (M: 8790116708)

versus

**UNION OF INDIA & ORS.**

..... Respondents

Through: Mr. Chetan Sharma, Ld. ASG with  
Mr. Apoorv Kurup, CGSC, Ms.  
Aparna Arun, Ms. Nidhi Mittal, Mr.  
Manish Bhardwaj & Mr. Pranshu  
Dhingra, Advocates for R-1 & 2.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **21.02.2023**

1. This hearing has been done through hybrid mode.



2. These are two writ petitions, which have been filed by M/s EMIL Mines and Mineral Resources Limited and M/s Hindalco Industries Limited, which are allottees of coal mine at Radhikapur (East) Coal Mine and Dumri coal mine, situated at North Karanpura Coalfield, District Hazaribagh, Jharkhand respectively.

3. The case of the Petitioners is that these mines were the subject matter of the judgment dated 24<sup>th</sup> September, 2014 passed by the Supreme Court in ***Manohar Lal Sharma v. Principal Secretary, & Ors. (2014) 9 SCC 614*** cancelling the coal block allocations. After the said judgment was passed, a One-Time Surrender Policy was announced by the Government on 9<sup>th</sup> May, 2022, by which the Ministry of Coal granted a one-time window to government allottees to surrender non-operational coal mines without any penalties.

4. The case of the Petitioners is that the said policy ought to be extended even to the private coal block allottees, inasmuch as the distinction between the government and private allottees would be arbitrary, discriminatory and contrary to law.

5. In the present petitions, notice was issued on 25<sup>th</sup> July, 2022 and the following directions were passed.

*“Notice. Since the respondents are duly represented by learned counsels, let a counter affidavit be filed on their behalf on or before the next date fixed.*

*The Court clarifies that the issuance of notice on these two writ petitions at this stage stands restricted to the challenge laid by the petitioners to the exclusion of a private entity from the benefit of the One-Time Surrender Scheme.*

*List again on 30.08.2022.*



*The respondents shall ensure that a copy of the counter affidavit is circulated amongst learned counsels representing the petitioners at least a week prior to the date fixed to enable them to file their response.”*

6. As can be seen from the above order, the notice in this petition, has been restricted to the challenge made by the Petitioners in respect of exclusion of private allottees from the benefit under the One Time Surrender Scheme.

7. Mr. Amit Sibal and Mr. Dayan Krishnan, Id. Senior Counsels appearing for the Petitioners submit that the extension of the One Time Surrender Scheme ought to be fairly given even to the private companies.

8. On the other hand, Mr. Apoorv Kurup, Id. CGSC appearing for the Government submits that these mines have been kept non-operational due to which the Government is not able to generate any revenue. He submits that the One Time Surrender Scheme is a question of policy taken by the Ministry, which has not been extended to the private entities as the Petitioners were auction purchasers of these mines.

9. Be that as it may, in order to ensure that valuable coal mines do not remain dormant and unexploited, leading to losses for the exchequer with no corresponding benefit to the Petitioners who wish to surrender the mines, Id. Counsels for the parties may seek instructions on whether the following arrangement would be acceptable to them:

- (1) The Respondents, deeming the Petitioners to no longer be allottees of the mines, could resume possession of the coal mines and proceed with the allotment/auction of the concerned coal mines in accordance with the prescribed procedure;



(2) Respondents could calculate and place on record the compensation payable;

(3) In the meantime, subject to bank guarantees being kept alive, no coercive measures would be taken by the UOI for invocation or encashment of the bank guarantees which have been submitted by the Petitioners, which would further be subject to the orders of this Court.

10. These above terms have been put to the parties in order to ensure that the coal mines are put to use so that revenues can be generated from the said coal mines, during the pendency of the Petitions.

11. List on 28<sup>th</sup> February, 2023.

**PRATHIBA M. SINGH, J.**

**FEBRUARY 21, 2023**

*dk/sk*