

(2011) 12 AHC CK 0288

Allahabad High Court

Case No: Writ-C No. - 75992 of 2011

Rakesh Kumar Dixit

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Dec. 23, 2011

Acts Referred:

- Uttar Pradesh Minor Minerals Concession Rules, 1963 - Rule 14(3)(4)

Hon'ble Judges: Vineet Saran, J; Ashok Pal Singh, J

Bench: Division Bench

Final Decision: Disposed Of

Judgement

1. Heard learned counsel for the petitioner as well as learned Standing Counsel appearing for the respondents and have perused the record. With consent of learned counsel for the parties, this writ petition is being disposed of finally at this stage without calling for a counter affidavit.

2. The petitioner was granted mining lease for a period of three years, which lease was to expire on 14.5.2010. Six months prior to the expiry of said mining lease, the petitioner had applied on 11.11.2009 for renewal of said mining lease, which was forwarded to the State Government on 14.1.2010. By order dated 4th October, 2011, the State Government has approved the renewal of the mining lease for a period of three years but with effect from the date of expiry of said mining lease i.e. 14.5.2010.

3. The submission of the learned counsel for the petitioner is that in terms of a Division Bench's judgment of this Court passed in Writ Petition No. 67371 of 2009 (Ajai Kumar Singh vs. State of U.P. and others) decided on 21.12.2009, the terms of the lease should be three years from the date when the lease deed is executed and not from the date when the lease has expired. In the said judgement, it is categorically held that " Under Rule 14(4) of the Rules, 1963 the date of commencement of renewal mining lease would be the date on which the renewed

mining lease deed had been executed, or the date of actual commencement of mining operation whichever is earlier." It is submitted that after the expiry of the mining lease, the petitioner has not been conducting any mining activities in the area in question and he would be permitted to carry on mining only after the lease is executed and as such the condition of three years of period from the expiry of earlier lease is wholly unjustified and the same ought to be three years from the date when the lease is executed.

4. The submission of learned counsel for the petitioner has force.

5. Accordingly, this writ petition is disposed of finally with the direction to the District Magistrate, Hamirpur to pass appropriate orders for execution of mining lease deed of the petitioner in accordance with the provisions of Rule 14(3)(4) of the U.P. Minor Minerals (Concession) Rules, 1963 and the decision of Division Bench of this Court in the case of Ajay Kumar Singh (Supra) within a period of two months from the date a certified copy of this order is produced before the District Magistrate, Hamirpur.

6. There shall be no order as to costs.