

(2013) 04 JH CK 0018

Jharkhand High Court

Case No: WP (C) No. 4227 of 2012

M/s. Shiv Guru Stone Works and
Another

APPELLANT

Vs

The State of Jharkhand and
Others

RESPONDENT

Date of Decision: April 12, 2013

Citation: AIR 2014 Jhar 28 : (2014) 4 EFLT 52 : (2013) 3 JLR 5

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Dhanajay Kr. Dubey, for the Appellant; Rahul Saboo for the Respondent No. 6,
for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Aparesh Kumar Singh, J.

The order dated 14.7.2012, Annexure-6, passed by the Assistant Mining Officer, Giridih is under challenge whereby the order of Deputy Commissioner, Giridih refusing to renew the petitioners' mining lease was communicated to him. Subsequently, by way of amendment the order of Deputy Commissioner, Giridih itself was also brought on record by way of Interlocutory Application and permitted to be challenged in the main writ petition. According to the petitioners, their applications for renewal of mining lease have been cancelled by the impugned orders inter alia on the ground that the area in question fall within 400 metres from the reserved forest area; the Divisional Forest Officer, Giridih has reported against such renewal vide letter dated 11.6.2012, on the said ground and environmental clearance for obtaining such renewal of lease, has not been obtained.

2. Affidavits were exchanged during the writ petition between the parties and the State Pollution Control Board also appeared and filed their affidavit. However, the issue raised in the present writ petition is now narrow down to the question of grant

of environmental clearance for such projects, which has been made a mandatory requirement before renewal of such mining lease whether minor or mineral or a particular size below five hectares or above that. This obviously has been done pursuant to the direction of the Hon"ble Supreme Court dated 27.2.2012 in SLP(C) No. 19628-19629 of 2009. The State Pollution Control Board has also subsequently issued letter dated 14.5.2012 acting upon the direction of the Hon"ble Supreme Court. As per the said letter, the petitioner is required to obtain environmental clearance from the State Level Environment impact Assessment Authority (SEIAA), which has been constituted by the Central Government vide notification dated 27.12.2012. The State Government has, thereafter, issued a public notice dated 7.4.2013 whereby in pursuance of the powers under the Environment Protection Act, 1986 and also in furtherance of the notification of the Government of India, the State Level Environment Impact Assessment Authority-SEIAA and the State Expert Appraisal Committee-SEAC have been made functional. It has been also indicated in the aforesaid paper notice, which has been produced on behalf of the parties today that any interested person may make an application on deposit of requisite fee before the State Level Environmental Impact Assessment Authority (SEIAA) and after scrutiny of these applications, the State Level Environmental Impact Assessment Authority (SEIAA) will take a decision upon it for grant of environmental clearance.

3. In these circumstances, in the present facts of the case, the writ petitioners are required to obtain the mandatory environmental clearance from the concerned authority, which has been constituted by the Central Government and has been made functional by the State Government by the aforesaid public notice. Therefore, without interfering with the impugned order, the writ petitioners are allowed to approach the State Level Environment Impact Assessment Authority (SEIAA) for seeking grant of environmental clearance for the area in respect of which they are seeking renewal of mining lease.

4. Learned counsel for the petitioners submits that on making of such applications, the authority concerned may be directed to take a decision within reasonable time in accordance with law as the matter has been pending for more than one year.

5. Learned counsel for the State and the respondent-the State Pollution Control Board do not object to the same.

6. In such circumstances, therefore, the writ petition is being disposed of with liberty to the petitioners to approach the State Level Environment Impact Assessment Authority (SEIAA) with proper application in the prescribed form, with all such necessary requirements alongwith prescribed fee etc. within a period of two weeks. On receipt of duly filled application, the State Level Environment Impact Assessment Authority (SEIAA) shall proceed to scrutinize the same in accordance with law and it is expected that an appropriate decision will be taken thereupon by the concerned authority within a reasonable period preferably within a period of ten weeks thereafter.

7. Accordingly, this writ petition stands disposed of in the aforesaid terms. Let it be made clear that any observation made hereinabove shall not be treated as comment upon the case of the parties.