

(2012) 11 JH CK 0046

Jharkhand High Court

Case No: Writ Petition (C) . No. 2844 of 2007

M/s Muraliwala Minerals Pvt. Ltd.

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision: Nov. 22, 2012

Acts Referred:

- Constitution of India, 1950 - Article 227
- Mines and Minerals (Development and Regulation) Act, 1957 - Section 30, 5(2), 6(1)C

Citation: (2013) 3 EFLT 39

Hon'ble Judges: Aparesh Kumar Singh, J

Bench: Single Bench

Advocate: Kanti Kumar Ojha, for the Appellant; Mokhtar Khan and Vishal Kumar Rai, for the U.O.I. and M.S. Akhtar, S.C. Mines and Arvind Kr. Mehta, J.C. to S.C. Mines, for the State, for the Respondent

Judgement

Aparesh Kumar Singh

1. Heard learned counsel for the parties. The petitioner has prayed for quashing of the order contained in Memo no. 534 dated 12.5.2004 issued under the signature of the Deputy Secretary, Dept. of Mines and Geology, Govt. of Jharkhand as well as order dated 19.3.2007 passed by the Revisional Authority i.e. Central Government Mining Tribunal by which the revision of the petitioner against the original order has been rejected.

2. It is the case of the petitioner that he made an application on 9.1.1997 in terms of Rule 22(i) of the Minerals Concessions Rules, 1960 for grant of mining lease for the minerals Mica, Feldspar and Quartz over an area of 140 acres of land situated in Mouja Nagri of District Giridih. Petitioner, thereafter, was asked to furnish certain documents vide memo dated 12.3.1997 (Annexure-1) under the signature of Assistant Mining Officer, Giridih. It is submitted that petitioner submitted all the documents at his disposal for consideration of his application. Further, it is stated

that part of the land was recorded as forest land in the record of revenue and Assistant Mining Officer was directed by the Additional Director, Mines to procure no objection certificate from the forest authorities. Thereafter, Divisional Forest Officer, Giridih confirmed on the basis of the inquiry report that area for which petitioner had applied for mining lease comes beyond the forest area (Annexure-3). Petitioner's factory license was renewed by the Labour Department, Government of Jharkhand vide memo no. 208 dated 6.3.2002. It is the contention of the petitioner that his application remained pending for long and only in the year 2000 official correspondence was made directing the petitioner to appear before the year 2003 vide Annexure-4 series. Petitioner, thereafter, moved this Court in W.P.C. No. 6318 of 2003, which was disposed of vide order dated 23.12.2003 with a direction to the State Government to dispose of the application filed by the petitioner for grant of mining lease in accordance with law within a period of 3 months. The petitioner, thereafter, preferred a representation but his application has been rejected vide letter no. 534 dated 12.5.2004, which is Annexure-7 to the writ application on the ground that petitioner had failed to submit the relevant documents in support of his application. The petitioner, thereafter, preferred revision before Central Government Mining Tribunal u/s 30 of the MMDR Act, 1957 and Rule 55 of Minerals Concessions Rules, 1960. The aforesaid revision application being 6/4 (2004)-R.C.I. has also been rejected vide order dated 19.3.2007 which is also impugned in the present writ application. Counsel for the petitioner submitted that despite submitting documents as required under the Act and Rules, the Original authority as well as Revisional authority have rejected his application for grant of lease of the aforesaid minerals for the area in question. Further, it is submitted that no opportunity of hearing had been given to the petitioner while passing the order.

3. Respondent-State has appeared and filed their counter affidavit while the Union of India has also supported the order of the Revisional authority contained at Annexure-8. It is submitted on behalf of the respondents that the application of the petitioner was considered in accordance with law and it was found that the mining lease application of the petitioner under Rule 26(i) of the Minerals Concessions Rules, 1960 did not fulfill the requirement of furnishing necessary document such as (a) the forest clearance under the Forest Conversion Act, 1980 (b) Land schedule as per rule 22(3)(g) (c) Original village map (d) Financial soundness certificate (e) C.O. Report (f) Area applied for is not a compact block u/s 6(1)C of MMDR Act, 1957 (g) Geological report u/s 5(2) of MMDR Act, 1957 (h) Affidavit for Income Tax & consideration of the case of the interested applicant. It is further submitted on the part of the respondent that the petitioner failed to submit these documents either before competent officer of the State Government for consideration of his application for mining lease and also before the Central Government Mining Tribunal.

4. Respondent-State in their counter affidavit have also stated that one Sunil Kumar Gupta have been granted prospective license and application of 4 other persons

including the petitioner has been rejected. It is further submitted that the petitioner was afforded enough opportunity from the State Government right from the year 1997 and in 2004 his application was rejected since he failed to comply with the requirement of law by furnishing necessary documents. Even before the Central Government Mining Tribunal petitioner was given adequate opportunity and he was represented through his counsel. Learned Tribunal also took into account that State Government afforded the opportunity of hearing under Rule 26(1) of the M.C. Rules, 1960 and also issued notice to the petitioner to complete his application under rule 26(3) of M.C. Rules, 1960 which he failed to do. The State Government also followed the laid down procedure for disposal of application of mining lease. Accordingly, the order of the State Government was upheld and revision application was rejected.

5. This court on the previous dates allowed opportunity to the petitioner to show that he had submitted the relevant documents as were required under the Rules and were demanded by the competent authority for consideration of his license. However, even from the perusal of the supplementary affidavit filed on behalf of the petitioner it does not appear convincingly that petitioner have yet been able to show that the required documents were furnished before the competent authority within stipulated time, although the matter was pending for 7 long years after he first made application in the year 1997. It appears from the relevant pleadings and records that in the year 2004 prospective license has been

6. Therefore, in exercise of the supervisory jurisdiction under Article 227 of the Constitution of India under which the instant application has been preferred, the duty of this court is to see whether the inferior Tribunal has remained within the bounds of the jurisdiction or committed serious error of jurisdiction or acted in excess of the jurisdiction.

7. In the facts and circumstances, which has been narrated herein above, I do not find that the original authority i.e. the State Government or the Central Government Mining Tribunal had gone beyond the confines of their jurisdiction conferred under MMDR Act, 1957 and Minerals Concessions Rules, 1960 or committed any perversity so as to warrant interference from this court. In these circumstances, I do not find any merit in this writ application. Accordingly, this writ application is dismissed. Learned counsel for the petitioner prays for liberty to him to apply afresh for grant of such mining lease if the area in question has not been allotted to other person. Needless to say that if such liberty is available to him under law, petitioner will be at liberty to make fresh application.