
(2002) 11 P&H CK 0078
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4620 of 1994

Abdul Ghani

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 27-11-2002

Acts Referred:

Citation : (2003) 1 RCR(Civil) 803

Hon'ble Judges : G.S.Singhvi, J

Advocate : Shri Ajai Lamba, Advocate. Ms. Ritu Bahri, Deputy Advocate General, Haryana., Advocates for appearing Parties

Judgement

G.S. Singhvi, J.

1. The petitioner has invoked jurisdiction of this Court under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to grant mining rights to him in respect of slate deposits in village Kherli Kalan, Tehsil Ferozepur Jhirka, District Gurgaon.

2. The case set up by the petitioner is that he had discovered slate deposits in an area measuring 441 kanals 1 marlas in village Kherli Kalan and had applied for grant of mining lease as early as in February, 1993, but without considering his application and in clear violation of the provisions contained in the Punjab Minor Minerals Concession Rules, 1964, as applicable to the State of Haryana, the authorities of Department of Mines and Geology, Haryana issued notification Annexure P6 dated 23.12.1993 and granted mining rights to others. According to him, the action of the respondents to issue notification Annexure P6 is wholly arbitrary and violative of his fundamental right to equality guaranteed under Article 14 of the Constitution of India.

3. The respondents have not disputed the existence of slate deposits in the area of village Kherli Kalan, but have controverted the petitioner assertion that he was the first person to discover the deposits. According to them, the slate deposits were within the knowledge of the department much before 1993 and in fact, one

Ghanshyam Dass Gupta had applied for mining lease for slate stone as early as in September, 1990. They have averred that five applications were received in pursuance of notification annexure P6 and after considering the comparative merit of the applicants, mining rights were granted to M/s Mewat Minerals for an area of 22.25 acres and to Shri Usman son of Shri Imam Khan for the remaining area of 75.82 acres. As regards the application of the petitioner, the respondents have averred that the same was rejected by the State Government and to this effect, communication dated 17.12.1993 was sent to him.

4. The petitioner has not filed replication to controvert the averments contained in the written statement to the effect that mining rights were granted to M/s Mewat Minerals and Shri Usman son of Shri Imam Khan and that his application was rejected in the year 1993.

5. I have heard learned counsel for the parties and perused to the record. In my opinion, the writ petition is liable to be dismissed because :

(a) the petitioner has not challenged the rejection by the State Government of his application for grant of mining lease;

(b) those, who were granted mining rights in pursuance of notification annexure P6 have not been impleaded as party respondents and without hearing them, no order adversely affecting their rights can be passed by the Court; and

(c) if the petitioner felt aggrieved against the rejection of his application, he could have availed statutory remedies by filing appeal and revision which he admittedly did not do.

For the reasons stated above, the writ petition is dismissed.