

(2023) 10 UK CK 0111

In the Uttarakhand High Court

Case No : Writ Petition (M/B) No. 301 Of 2023??????????

Akhil Bhandari

APPELLANT

Vs

State Of Uttarakhand & Another

RESPONDENT

Date of Decision : 18-10-2023

Acts Referred:

Uttarakhand Minor Mineral (Concession) Rules, 2023 — Rule 23, 24

Citation : (2023) 10 UK CK 0111

Hon'ble Judges : Vipin Sanghi, CJ;Rakesh Thapliyal, J

Bench : Division Bench

Advocate : Prabhat Bohra, B.S. Parihar

Final Decision : Dismissed

Judgement

Vipin Sanghi, CJ

1) The petitioner has preferred the present writ petition to challenge Clauses 13 and 18 of the tender conditions contained in the tender notice dated 27.09.2023, for grant of mining leases. By the impugned conditions, the respondents have required that the bidders should produce certificate of past experience of operating a mining lot / mining lease / stone crusher / screening plant located in riverbed, issued by the District Mines Officer of the concerned District. The challenge to the clauses is raised on the ground that the requirement of prior experience is not borne out from the Uttarakhand Minor Mineral (Concession) Rules, 2023, framed on 16.06.2023, and, therefore, such a requirement could not have been imposed by the respondents in the tender in question.

2) Counsel for the petitioner has, firstly, referred to Rule 23, which lays down the disqualifications. The disqualification enumerated in Rule 23 are the following :

3) The argument is that lack of past experience is not a disqualification under the Rules. Reliance is also placed on Rule 24, which enlists the documents, which the bidder may be required to submit. The argument is that the said Rule does not require submission of past experience certificate. The said Rule, so far as, it is

relevant reads as follows :

4) We have heard learned counsel for the petitioner, and considered his submission, and we do not find any merit in the same.

5) The Rules above referred to nowhere provide that the State cannot insist on possession of past experience by the bidders. There is nothing to counter-indicate the requirement of past experience. It is only reasonable for the respondents to require proportionate past experience of the bidders, since mining is a technical job which requires deployment and use of tools & tackles, and machinery. We, therefore, do not find any merit in this petition. The same is, accordingly, dismissed.

6) The respondents may proceed with the tender in question. However, it shall be ensured that while proceeding with the tender in question, and while proceeding with all other tenders for grant of mining leases, the prior environmental approval and clearance is obtained in terms of the Notification dated 14.09.2006, issued by the Ministry of Environment and Forests, Government of India.