
(1974) 05 RAJ CK 0002

In the Rajasthan High Court

Case No : Civil Writ Petition No. 1994 of 1973

Champalal

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 09-05-1974

Acts Referred:

Constitution of India, 1950 — Article 226
Mines and Minerals (Development and Regulation) Act, 1957 — Section 15, 30
Rajasthan Minor Mineral Concession Rules, 1959 — Rule 18

Citation : AIR 1975 Raj 182 : (1977) CriLJ 169 : (1974) RLW 255 : (1974) RLW 330 : (1974) 7 WLN 577 : (1974) 7 WLN 392

Hon'ble Judges : M.L. Joshi, J

Bench : Single Bench

Advocate : Lekhraj Mehta and Raj Narain, for the Appellant; M.L. Shrimal, Addl. Advocate-General and M.M. Vyas, for the Respondent

Final Decision : Dismissed

Judgement

M.L. Joshi, J.—In this petition under Article 226 of the Constitution of India, the petitioner seeks an appropriate writ, order or direction for (i) quashing the orders of the State Government dated 17-11-1971, 7-9-1973 and 12-11-1973, (ii) an appropriate writ or order or direction restraining the respondents Nos. 1, 3 and 4 from giving effect to the above mentioned orders and further to prohibit the respondent No. 2 from executing the lease-deed, (iii) an appropriate writ, order or direction to the State Government to consider the application of the petitioner dated 24-3-1972 for grant of the mining lease, and (iv) any other appropriate writ, order or direction which the facts and circumstances of the case warrant.

2-3. The facts giving rise to this writ petition briefly stated are as follows :--

An area of ten square miles in village Mandla in Tahsil Sojat which is substantially covered by the impugned order sanctioning lease was previously held by Messrs. Keshav Singh and Shivji-singh on annual dead-rent of Rs. 1,00,000. That lease was to continue upto 30th of March, 1970. Messrs. Keshavsingh and Shivjisingh

surrendered the lease in the middle of 1968. This surrender of lease was accepted by the State Government with effect from 1-6-1968. The State Government then took steps for regrant of the area surrendered by Messrs. Keshav-singh and Shivjisingh and consequently declared the area free for regrant by its notification dated 5-9-1968 as required under Rule 53 of the Rajasthan Minor Mineral Concession Rules, 1959, hereinafter called the "Rules". No application seems to have been received in response to the said notice dated 8-6-1969 for about 6 months. It was, therefore, thought desirable that the lease for the area should be put to open auction. Accordingly another notification was issued in February 1969 and the area was put to auction on 24/25th of March, 1969, but no bid was received. The matter appears to have been again considered by the Government which again came with an another notification declaring again the area free for grant of mining lease and invited applications for grant of lease for the area declared free for regrant. The facts relating to the notification do not find place in the writ petition but find place in the Government's reply which fact has not been disputed by the petitioner before me.

On 14-1-1970, respondent No. 2 moved an application for grant of lease for the area of ten square miles which substantially covered the area declared free for regrant with some minor changes as will appear from the site plan enclosed with the application. In the application dated 14-1-1970 there were some typographical mistakes and, therefore, the respondent No. 2 rectified the typographical mistakes by submitting an application on 14-11-1970. The Mining Engineer and the Director of Mines and Geology made recommendation on the respondent No. 2's application for grant of lease to the respondent No. 2 at an annual dead-rent of Rs. 84,000, but the Government accepted the recommendation regarding grant of lease but fixed the annual dead-rent at one lac rupees. The order granting lease dated 17-11-1971 in favour of the respondent No. 2 was conveyed by the Mining Engineer on 12-1-1972 wherein the respondent No. 2 was directed to execute formal lease within one month from the date of the receipt of the order and further asked him to submit the stamp papers for execution of the lease-deed along with the security amount and the first instalment of dead-rent. It appears that the amount of dead-rent of Rupees 1,00,000 per annum was not acceptable to the respondent No. 2 who made representation for reduction of dead-rent to Rs. 84,000 on 15-1-1972. The respondent No. 2 further on 16-1-1972 made representation for extension of time until his representation for reduction of dead-rent was finally decided.

On 22-8-1972, the Government turned down the request of respondent No. 2 for reduction of the dead-rent but allowed one month's time to the respondent No. 2 for execution of the formal lease-deed. It will thus appear that the respondent under the order D/- 22-8-1972 could execute the lease upto 21st of September, 1972. It is noteworthy to mention here that in the meantime the petitioner had made an application on 24th of March, 1972 for the grant of lease for ten square miles the very area for which the respondent No. 2 had originally moved an

application on 14-1-1972. The respondent No. 2 does not appear to have been satisfied by the Government's stand in persisting in the demand of Rs. 1,00,000 as dead-rent. The respondent No. 2, therefore, made further representation on 8-0-1972 for reconsidering his demand for reduction of the rent. A further application was moved on 11-9-1972 by the respondent No. 2 to the Mining Engineer praying to keep the action in the matter of execution of the lease pending till his representation was finally decided by the Government. The Secretary to the Government by his letter dated 26-10-1972 again turned down the request for reduction of the dead-rent, but further directed the respondent No. 2 to execute the lease within one month from the date of the receipt of that letter.

The respondent No. 2 persisted to be aggrieved by the rate of annual dead-rent of Rs. 1,00,000 and so made another representation to the Mining Engineer on 10-11-1972. This representation was disposed of on 13/14th of December, 1972, whereby the prayer for reconsideration of the revision of the dead-rent was turned down but again the respondent No. 2 was granted one month's time for execution of the lease. On 13-1-1973 the respondent made the Last representation for reconsideration of his prayer for reduction of the dead-rent and for extension of the time for execution of the lease-deed. To complete the facts it may be appropriate to mention that in the mean time the respondent No. 2 had sent Rs. 125 along with his letter dated 18-11-1972 demanded as demarcation fees and had remitted Rs. 25,000 along with his letter dated 20th November, 1972 under protest as first quarter's instalment. It may also be mentioned here that before the order sanctioning the grant of lease in favour of respondent No. 2 was made the respondent No. 2 had sent revised plans along with his letter dated 23-4-1971 to be considered at the time of grant. A controversy was raised in regard to the fact of submission of the revised plan on behalf of the respondent No. 2 on the ground that the revised plans were submitted along with the application dated 26-11-1972 and not with the application dated 23-4-71 which at one stage was alleged by the petitioner to be a smuggled one.

In the mean time the Government had called for the report from the Mining Engineer as to whether the lease had been executed by the respondent No. 2. The Mining Engineer by his letter dated 1-11-1972 wrote to the Director Mines and Geology that the party had not yet executed the lease and further informed that the petitioner had applied for the grant of the lease on 24th of March, 1972 and the same was pending and that if the respondent No. 2's lease is revoked by the Government the petitioner's application for grant of lease may be considered. It is also worthwhile to mention here that the Government had called for the report of the Mining Engineer by its D O No, F. 4 (1)/142/I & D/B/64 dated 2-12-1972 in reply to which the Mining Engineer had in his letter dated 12-1-1973 given the previous history of the area in question pointing out that the area had been vastly exploited and in that view of the matter he had recommended for the fixation of dead-rent to Rs. 34,000. Thereafter on

7-9-1973 the State Government accepted the representation of the respondent No. 2 and by its order dated 7-9-1973 reduced the amount of dead-rent from Rs. 1,00,000 to Rs. 84,000 per annum. After the receipt of the order dated 7-9-1973 the Mining Engineer sought instructions as to whether the lease should be got executed as per the revised plan or as per the plans attached with the original application. The Government by its letter dated 12-11-1973 conveyed its approval for the execution of the lease by the respondent No. 2 as per the revised plan.

The case of the petitioner as set up in the writ petition is that the respondent No. 2's lease stood automatically revoked as he failed to execute the lease within one month from the order sanctioning the grant of lease and that the Government has exceeded its jurisdiction in granting extension to the respondent No. 2 who had failed to fulfil the precondition of satisfying the Government that he was not responsible for the delay in the execution of the lease. The further case of the petitioner is that his application dated 24-3-1972 was already pending, and as the respondent No. 2 had submitted the revised plan along with his application dated 26-11-1972 i.e. after his application was filed and therefore, his application was a fresh application. If the respondent No. 2's application in the context of the revised plans is taken to be a fresh application, then only the petitioner's application remained in the field and should have received priority in the matter of grant of lease but the Government failed to exercise jurisdiction which was vested in it in not giving priority to the petitioner's application and, therefore, the impugned orders are void. It is also the case of the petitioner that looking to the Rule 18 of the Rajasthan Minor Mineral Concession Rules, 1959, hereinafter called the Rules, the Government was not competent to invoke the proviso to Rule 18 of the Rules in favour of the petitioner and thus to grant the lease as per the revised plans.

4. The respondents resisted the petition inter alia on various grounds, the principal grounds being that the petitioner could not acquire any legal enforceable right by moving application on 24-3-1972; that there was an alternative remedy of revision under Section 30 of the Mines and Minerals (Regulation and Development) Act, 1957. hereinafter called the Act and that the Government had power to extend time for the execution of lease under the proviso to Rule 18 in the facts and circumstances of the case; that the revised plans were submitted on 23-4-1971 and not on 26-11-1972 as wrongly alleged by the petitioner and therefore the petitioner's application dated 24-3-1972 was of no avail more particularly when that application was defective being not accompanied by the requisite plans and that the Government had power under Rule 59 of the State Rules to relax any of the provisions of the Rules in the interest of development of minerals or better working of the mines and it was within its competence to allow the respondent No. 2 to execute the lease after the prescribed time and its action was not open to judicial review.

5. Mr. Lekhraj Mehta has challenged the impugned orders on various grounds.

His contentions may be summarised as under :--

(1) The lease was not executed in compliance of the order sanctioning lease dated, 17-11-1972. No order of extension was obtained within one month of the sanctioning of the lease and, therefore, the lease automatically stood revoked.

(2) Subsequent orders of the Government extending the period for the execution of lease from time to time were illegal on two grounds : (a) that the Government was not competent to extend the period of execution of the lease after one month from the date of the receipt of the order granting lease by the respondent No. 2; (b) the Government was not empowered to extend the period of lease once the respondent No. 2 failed to execute the lease within the extended time.

(3) Essential conditions for invoking the powers under Rule 18 of the Rules never existed as there were no materials to satisfy the Government that the respondent-defendant was not responsible for the delay in execution of the lease. It was contended that the order extending the lease neither contained recital to the effect that the Government was satisfied that the respondent No. 2 was not responsible for the delay nor there were valid reasons for the delay. According to the learned counsel the decision of the Government was based on extraneous and irrelevant consideration of the right to make representation for reduction of the dead-rent.

(4) The Government had accepted the revised plans from the respondent on 26th of November, 1972 which were wholly different from those submitted along with the original application, and submission of the revised plans virtually amounted to a fresh application on 26-11-1972 on which date the petitioner's application for grant of mining lease was already pending for the area which was substantially covered by the revised plans and consequently the petitioner was entitled to priority as per Rule 9 of the Rules, and the Government was not competent to review its own order dated 22-8-1972 where under only one month's time was granted for the execution of the lease.

6. Two preliminary objections have been raised on behalf of the respondent, namely, (i) that there is no enforceable legal right in the petitioner to move this Court under Article 226 of the Constitution of India; (ii) that the petitioner did not avail the alternative remedy of revision against the impugned orders of the Government u/s 30 of the Mines and Minerals (Regulation and Development) Act, 1957 (LXVII of 1957).

7. Before I deal with the contentions of Mr. Mehta, learned counsel for the petitioner on merits, it will be proper to dispose of the preliminary objections set out above.

8. The first preliminary objection of the learned counsel for the respondents is that the petitioner has no enforceable right to bring this writ petition and, therefore, the writ petition deserves to be rejected. The argument of the learned counsel for the respondent proceeds thus: The order sanctioning lease was

passed on 17-11-1971 which was conveyed to the respondent No. 2 by the Mining Engineer on 12-1-1972. The respondent No. 2, applied for extension on 16-1-1972 for the reduction of dead-rent from Rs. 1,00,000 to Rs. 84,000 per annum and the Government by its order dated 22nd of August, 1972, although rejected the request for reduction of the dead-rent it directed the respondent No. 2 to execute the lease within one month from 22nd of August, 1972. The respondent No. 2 again made another representation on 11-9-1972 for considering his request for reduction of the dead-rent of Rs. 84,000 per annum and the Government again refused to reconsider the prayer for reduction but again asked the respondent No. 2 to execute the Lease within one month from that date. The respondent again moved for reconsidering his prayer for reduction of the rent and the Government again refused to reconsider the request but allowed the respondent No. 2 by its order dated 13/14th of December, 1972, to execute the lease within one month from that date,

On 13-1-1973 the respondent No. 2 again sought the indulgence of the Government by moving an application for reconsidering his reasonable demand for reduction of the rent and eventually the Government accepted the demand for reduction of rent to Rs. 84,000 per annum by its impugned order dated 7-9-1973 and asked the respondent to execute the lease. The respondent No. 2 in compliance of this order took necessary steps as per the order of the Government and consequently the period for execution of the lease stood extended by the Government in exercise of its powers conferred upon it under the proviso to Rule 18. The extended period, therefore, stood substituted for the original period mentioned in the order dated 17-11-1971 sanctioning the lease in favour of the respondent No. 2 and, therefore, there was no room left for the consideration of the petitioner's application dated 24-3-1972 which was premature and was liable to be rejected under Rule 54 of the Rules Moving of such an application by the petitioner did not confer upon him any legal enforceable right, nor it can be said that the petitioner was affected/aggrieved person to challenge the impugned orders in the extraordinary jurisdiction under Article 226 of the Constitution of India.

9. Mr. Mehta on the other hand replied that the respondent No. 2 failed to execute the lease within one month from 17-11-1971 and, therefore, the order granting lease in his favour stood automatically revoked by virtue of the provisions contained in Rule 18. It was further contended that the various orders passed by the Government for extending the period for execution of the lease were wholly without jurisdiction as the conditions precedent for the exercise of the powers under proviso to Rule 18 did not exist. Consequently the order sanctioning lease would stand revoked leaving only the petitioner's application dated 24-3-1972 for consideration and, therefore, the petitioner has right to maintain this writ petition.

10. I have considered the rival contentions submitted before me. In my opinion the petitioner did not acquire any enforceable legal right by moving an

application on 24th March, 1972, in the facts and circumstances of this case. When the petitioner moved an application for grant of permit on 24-3-1972, the respondent No. 2's representation for extending the period for execution was already pending before the Government which had extended the time for the execution of lease by its order dated 22-8-1972 for one month from the date of its order. The Government is empowered to extend the time under the proviso to Rule 18 of the Rules and by virtue of the order dated 22-8-1972, the original period of execution of lease stood extended upto 22-9-1972 under that order. The respondent No. 2 was entitled to execute the lease at least upto 22-9-1972 under the above mentioned order of the Government. Therefore, there was no question of entertaining the petitioner's application dated 24-3-1972 as the period for execution of lease by the respondent was extended upto 22-9-1972. The petitioner's application was therefore premature and liable to be rejected.

Moreover the Government further extended the period for the execution of lease by the respondent No. 2 and the respondent took necessary steps for the execution of lease within the extended time. So in my opinion there was no scope left for the consideration of the petitioner's application for grant of lease. The contention, of the learned counsel that the Government could not extend the period under the proviso to Rule 18 as the essential conditions for the exercise of such power never existed for the exercise of such power is not sound as I shall later on show that the Government was empowered under proviso to Rule 18 to grant extension to the respondent No. 2 for the execution of the lease. In any event looking to the spirit and intend-ment of Rule 59, the Government was empowered even to relax the provision of any rule including Rule 18 and so granting extension by the Government was well within its power looking to the spirit and the intendment of Rule 59 of the Rules, In this view of the matter there was no occasion for the consideration of the petitioner's application. Moreover mere filing of application for grant of lease by the petitioner did not confer any enforceable right for seeking mandamus. The petition deserves to be dismissed on this score also.

11. The second preliminary objection relates to the existence of alternative remedy of revision, u/s 30 of the Mines and Minerals (Regulation and Development) Act, 1957. Section 30 of the Act confers powers of revision upon the Central Government. It reads as under :--

"The Central Government may of its own motion or on application made within the prescribed time by an aggrieved party revise any order made by State Government or other authority in exercise of the powers conferred on it by or under this Act."

It is contended that the petitioner did not avail the remedy of revision : therefore, he is not entitled to invoke the extraordinary jurisdiction of this Court. Mr. Mehta contended that the remedy of revision is available against only those orders of the State Government which relate to major mines and minerals. In this connection he invited my attention to Section 14 of the Act which excludes

the applicability of Sections 4 to 13 to minor minerals. Mr. Mehta tried to confine the scope of Section 30 with reference to Central Rules as well as the Rules framed by the State Government u/s 15 of the Act. It was contended that Rule 54 of the Central Rules made provision for revision in regard to major minerals only and not to minor minerals and further that the Rules framed u/s 15 of the Act do not make provision for the revision before the Central Government against the orders relating to the minor minerals. The contention of Mr. Mehta does not appear to be sound. Section 30 is couched in wider terms and its operation cannot be restricted with reference to the Rules referred to by Mr. Mehta. There is nothing in Section 30 of the Act to show that the powers of revision conferred under the Act were confined to orders in regard to the major minerals only and not to minor minerals. The Rules cannot limit the scope of the express provisions of Section 30 of the Act. There is thus no justification for Mr. Mehta's contention when he seeks to restrict the operation of Section 30 of the Act to major minerals only. I am, therefore, of the opinion that the petitioner had alternative remedy by way of revision u/s 30 of the Act against the impugned orders of the State Government before the Central Government and as he failed to avail the alternative remedy he is not entitled to invoke the extraordinary jurisdiction of this Court. The writ petition, therefore, deserves to be rejected on this score also.

12. I now proceed to deal with Mr. Mehta's contentions on merits set out above. Before I deal with the contentions of Mr. Mehta, it will be proper to set out the relevant provisions of the Rajasthan Minor Mineral Concession Rules, 1959 :--

"8. Application for mining lease.--An application for mining lease shall contain the following particulars :--

(a) name, residence and profession of the applicant and his father's name, in the case of a limited company, its place of business and place of registration and name and address of each partner of the firm.

(b) name of the mineral or minerals for which the applicant intends to obtain the lease;

(c) a description, illustrated by a map or plan, showing accurately the situation, boundaries and area of the land in respect of which the lease is desired;

(d) the areas and minerals within the Rajasthan State for which the applicant already holds a mining lease;

(e) the period for which the lease is desired;

(f) certified copy of statement from the Department showing dues outstanding, if any, against the applicant.

9. Priority.-- (1) Where two or more persons have applied for a mining lease in respect of the same land, the applicant whose application was received earlier shall have a preferential right for the grant of the lease over an applicant whose application was received later :

Provided that where such applications are received on the same day, the Government after taking into consideration the matters specified below, may grant mining lease to such one of the applicants as it may deem fit :

- (1) Fast experience in mining.
- (2) Number of mining leases held.
- (3) Financial soundness and stability.
- (4) Claim of having worked the area at any time and the work having been found systematic.
- (5) Technical qualification.
- (6) Any dues outstanding in his name or on the name of the firm to which he is/ was a partner.

(2) Notwithstanding anything contained in sub-rule (1), the Government may, for any special reasons to be recorded, grant a mining lease to an applicant whose application was received later with reference to an applicant whose application was received earlier.

18. Lease to be executed within one month-- Where a lease has been granted under Rule 11 the formal lease in form given in Schedule IV shall be executed within one month from the date of receipt of the sanction by the applicant and if no such formal lease is executed within the aforesaid period, the order granting the lease shall be deemed to have been revoked :

Provided that where the State Government or any officer authorised by the State Government to grant lease in its behalf is satisfied that the applicant for the lease is not responsible for the delay in the execution of the formal lease, the State Government or that officer as the case- may be, may permit the execution of formal lease within a reasonable time after the expiry of the aforesaid period of one month.

54. Premature application :-- An application for grant of mining lease in respect of areas which have been previously held under a mining lease but in respect of which there is no entry in the register as provided for in the foregoing rule, shall be deemed to be premature and shall be disposed of by the Government accordingly and the application fee paid shall be refunded.

59. Relaxation of rules :-- The Government may relax any provision of these rules in the interest of mineral development or better working of mines."

The contention of Mr. Mehta that the lease stood revoked automatically as it was not executed within the time prescribed by the order sanctioning the lease has no substance in it. If we look at the proviso to Rule 18 it will appear that the Government is empowered to extend the period of lease even when the person in whose favour the order sanctioning lease has been passed has failed to execute the lease provided the Government is satisfied that the applicant to the lease

was not responsible for the delay in the execution of the formal lease. The proviso manifestly confers powers on the Government to extend the time for the execution of lease. Despite what is provided in first part of Rule 18, the revocation of the lease will stand postponed if the Government chose to extend the time under the powers conferred upon it under the said proviso. The Government did extend the period for the execution of lease from time to time as stated earlier and, therefore, the extended period will stand substituted in place of the original period as held in *Tiwari Jhumar Lal v. State of Rajasthan* 1964 Raj LW 380. It was contended that the powers under the proviso to Rule 18 are circumscribed by the pre-condition laid down in the proviso.

It is argued that the Government could invoke the proviso if it was satisfied that the respondent No. 2 was not responsible for delay in the execution of the lease which according to Mr; Mehta is a condition precedent for invoking the power under the proviso to Rule 18. It is said that such precondition never existed. The Government showed indulgence to permit the respondent No. 2 to execute lease after the prescribed term on wholly irrelevant consideration that the respondent No. 2 had been moving the representations for reduction of the dead-rent. Mr. Mehta submitted that this was wholly extraneous consideration not required by the Rules for the exercise of its power and, therefore, the Government could not invoke its power on such irrelevant consideration. In this connection; learned counsel relied upon *The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others*, ; *Rohtas Industries Vs. S.D. Agarwal and Others*, ; *Rampur Distillery and Chemical Co. Ltd. and Another Vs. Company Law Board and Another*, *R. C. Cooper v. Union of India*, AIR 1970 SC 564; AIR 1949 136 (Privy Council); AIR 1937 265 (Privy Council) *Vaishnava Dass v. Faqir Chand* AIR 1968 Delhi 6 ; *Narayanan Sankaran Mooss Vs. The State of Kerala and Another*,

Mr. Vyas on the other hand argued that the powers under the proviso could, be exercised on the subjective satisfaction of the Government as the order was purely of an administrative character and was not of a judicial nature. In this connection Mr. Vyas relied upon *Province of Bombay Vs. Kusaldas S. Advani and Others*, ; *Sadhu Singh Vs. Delhi Administration*, ; *R.H. Bhutani Vs. Miss Man J. Desai and Others*, *Tiwari Jhumar Lal v. State of Rajasthan* 1964 Raj LW 380; *Kassam Ali v. Commr., Plains Dvn.* AIR 1969 Gau 50; *Silchar Electricity Supply Ltd. v. State* AIR 1969 Gau 55 and *State of Rajasthan Vs. Raghunath Singh*, The Privy Council in AIR 1949 136 (Privy Council) has observed that when the satisfaction of the Government is not subject to any objective test then such powers of the Government will be of an administrative nature and shall not be subject to judicial examination as to the sufficiency of the ground on which the Government acts in forming an opinion. The Privy Council has, however, added that the opinion should of course relate to anything required under the statutory provisions and if it relates to something which was not required by the statutory provisions, the order of the statutory body will be invalid. The order of the Government under the proviso to Rule 18 is of an administrative nature and not a judicial one. It is to be noticed that no circumstances have been suggested in

the proviso to Rule 18 which are to be fulfilled before holding that the respondent No. 2 was not responsible for the delay in the execution of the lease. Nor any objective test or guidelines have been indicated for arriving at a decision as to when the applicant to the lease should be held not responsible for the delay. The entire matter for taking decision on the delay in execution of the lease has been entirely left to the subjective satisfaction of the Government. The whole matter being left to the entire satisfaction of the Government and the Government being the sole judge on this point, there is no escape from the conclusion that its order is purely of administrative character, resting entirely upon the subjective satisfaction of the Government.

The Barium Chemicals Ltd. and Another Vs. The Company Law Board and Others, Rohtas Industries Vs. S.D. Agarwal and Others, and Narayanan Sankaran Mooss Vs. The State of Kerala and Another, are clearly distinguishable, as in all those cases either the definite criteria or objective tests or the existence of circumstances or preconditions necessary for the exercise of the powers by the statutory body were indicated in the relevant provisions which were under consideration. The same remarks hold good for the other cases cited by the learned counsel for the petitioner. As I look at the proviso to Rule 18 I find no criteria or circumstances have been indicated for judging as to when the applicant to the lease should be held not responsible for the delay in execution of the lease. To my mind the expression "the applicant to the lease was not responsible for the delay in the execution of the lease", is purely within the subjective domain of the Government and is not subject to the fulfilment of any objective preconditions. The Government has been given a wide power under the proviso in regard to its satisfaction. It now remains to be seen whether the action of the Government extending the period was based on irrelevant consideration. The power of fixation of dead-rent is required under the Act and so also the power to consider the representation in that behalf. If the Government chooses to reduce the rent on the representation of the petitioner it cannot be said that the powers exercised in that regard do not relate to anything required under the Act or the Rules. The respondent No. 2 had been making continuous representations for reduction of rent and the Government had been granting time to execute the lease although it had rejected some of them. It is well to remember that the revenue from the minerals forms an important part of the State Revenue. The Government is the guardian of the finances of the State. It is expected to protect the financial interest of the State and that is why the legislature has empowered the Government to see that there is no leakage in the revenue. It is for the Government to decide whether extension of time is to be granted for the execution of the lease in the interest of the revenue of the State and once the Government has exercised the power in the interest of the revenue this Court cannot sit on appeal and interfere with its action. The inference of the Government that the respondent No. 2 was not responsible for the delay may be right or wrong but that was not open to judicial review.

13. The learned counsel then contended that the Government has not said in so

many words that it was satisfied that the respondent No. 2 was not responsible for the delay in executing the lease. To my mind absence of such statement will not make the Government's action in any way illegal. Once the Government postponed the date of execution of the lease it was implicit that it was satisfied as required by the proviso to Rule 18. Reference in this connection be made to Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another, wherein it has been held that express recital of formation of the opinion required by the law is not necessary. Moreover Rule 59 of the Rules cannot be lost sight of. Rule 59 empowers the Government to relax any of the provisions of "the Rules. It clearly indicates that the Government is competent to relax any of the provisions of the Rules if it chooses to do in the interest of mineral development or better working of mines. The powers of the Government are therefore of wider amplitude in the matter of grant of minor mineral lease. The action of the Government could be justified even on the basis of Rule 59 as it could relax any of the provisions of the Rules. In this view of mine I am fortified by a Supreme Court authority reported in Nand Kishore Saraf Vs. State of Rajasthan and Another, In that case the action of the Government to grant mining lease on a reduced rent by refusing a higher bid was challenged but the Supreme Court sustained the order of the Government in view of the spirit underlying Rule 59 by observing that Government could relax any such rules which could in any way come in the way of its granting contract.

14. It was further contended that the Government did not relax the rigour of proviso to Rule 18 under Rule 59 as the Government did not say so in its orders nor in the return filed by it. Be that as it may this will hardly make any difference as the Government could have relaxed the Rules.

15. Moreover the order of extension cannot be taken to .affect adversely any one's right. Petitioner's application dated 24-3-1972 was even not accompanied by the requisite plans necessary under Rule 8. I had been shown the original receipt-book by the Additional Advocate-General which was meant for acknowledging the applications in regard to the grant of lease by the State and it was found that all that was written in the couter-foil of the receipt was that the application along with the description was presented but as regards the recital as to the filing of the plans was concerned, it was conspicuously absent although in receipts in regard to other application the submission of the plans was also mentioned in the receipt-book. I called upon the learned counsel for the petitioner to bring the original receipt but no satisfactory answer was rendered in this behalf. Therefore, the fact remains that the petitioner's application was defective besides being premature under Rule 54 as shown earlier.

16. Learned counsel for the petitioner then contended that the revised plans were submitted by the respondent No. 2 on 26-11-1972. According to the learned counsel for the petitioner submission of the new plans will be tantamount to submission of fresh application for lease. This contention is also unacceptable to me. It is incorrect that the revised plans were submitted on 26-11-1972. The

fact of the matter is that the revised plans were submitted on 24-3-1971 which was prior to the petitioner's application for grant of lease. The State Government in its return had stated that at the time of sanctioning lease the revised plans were under consideration. It cannot be gainsaid that the order sanctioning lease could be with reference to revised plans. However, when the Government eventually finalised the matter by its impugned order dated 7-9-1973, clarification was sought by the Mining Engineer as to whether the grant of lease related to the revised plans or to the plans which were submitted along with the original application. The Government clarified the position stating that the lease is got to be executed with reference to the revised plans. This contention, therefore, does not merit any consideration.

17. It was next contended that the Government was not empowered to review its own order fixing time for execution of the lease. It is contended that the Government by its order dated 22-8-1972 directed the respondent No. 2 to execute the lease within one month from the receipt of the order. The respondent No. 2 failed to execute the lease and made representation for extension of time and also for reduction of the dead-rent. The action of the Government allowing further extension of time for execution of the lease would amount to review. It was contended that the review being a creature of the Statute and no power having been conferred upon the State, the Government could not review its order. It is true that the power of review can only be exercised if it is conferred under a Statute. But it is well to remember that the Government had not reviewed the order sanctioning lease but the same was intact. The question before the Government was only for the execution of the lease in pursuance of that order. Nobody's vested right was being affected. Various extensions granted for the execution of the lease to the respondent No. 2 were merely in discharge of administrative functions of the Government and could not be challenged on the ground that the Government had no power to review.

18. Before I conclude I may state that Mr. M. M. Vyas informed the Court in the course of arguments that the Government has revised the dead-rent from Rs. 84,000 to Rs. 1,00,000, a copy of this order has also been placed on the record. In the circumstances there can be no question of even loss to the State revenue. This circumstance also cannot be lost sight of.

19. In the result there is no force in this Writ Petition and it is hereby dismissed. In the facts and circumstances of the case there shall be no order as to costs.