

(2009) 08 DEL CK 0348
In the Delhi High Court
Case No : Writ Petition (C) 11073 of 2006

Chanchal Jain

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 26-08-2009

Acts Referred:

Mineral Concession Rules, 1960 — Rule 55(3), 55(4)
Mines and Minerals (Development and Regulation) Act, 1957 — Section 30

Citation : (2009) 08 DEL CK 0348

Hon'ble Judges : Sanjiv Khanna, J

Bench : Single Bench

Advocate : Pradeep Dewan, Amicus Curia, for the Appellant; Monika Garg and Shawana for UOI and Suryanaryana Singh, for the Respondent

Judgement

Sanjiv Khanna, J.

I have heard Mr. Pradeep Dewan, Amicus Curiae, who is appearing on behalf of the petitioner and Mr. Suryanaryana Singh, Advocate on behalf of the State of Rajasthan. With the consent of the parties, the writ petition is taken up for final disposal.

2. The State of Rajasthan vide two orders dated 15th January, 1998 and 27th January, 1998 had granted prospecting licenses PL 7/96 and PL 8/96 of soapstone minerals to the petitioner for the area specified therein for a period of one year with effect from the date of the execution of the agreement. A note to the said order stipulates that in case the grantee fails to execute the agreement within 90 days, the prospecting licence would be revoked without any notice.

3. The State of Rajasthan by two orders dated 10th June, 1999 and 8th March, 2000 cancelled and revoked the prospecting licences PL 7/96 and PL 8/96, respectively.

4. Aggrieved, the petitioner had preferred two revision petitions u/s 30 of the Mines and Minerals (Development and Regulation) Act, 1957. The revisions

petitions were dismissed vide order dated 6th March, 2003. Dismissals were made subject matter of challenge in the W.P.(C) 13220/2004, before this Court. The said writ petition was disposed of vide order dated 25th January, 2005 as statement was made by the Central Government Standing Counsel that the Revisionary Authority would reexamine the matter. The Court noticed that the main plank of the argument of the petitioner was that the demarcation was not carried out, therefore, the licence deeds were not executed. It was contended that the orders passed by the Revisionary Authority were without consideration of submissions made by the petitioner. The petitioner was permitted to make a representation, raising grounds before the revisionary authority.

5. The Revisionary Authority heard the matter and examined the relevant records. The State of Rajasthan produced the relevant records like field book, demarcation report etc. After examining the Government records, learned Revisionary Authority observed as under:

13. As to the question whether demarcation was done in the presence of the petitioner/representative of the petitioner, the State Government representative mentioned that as per records available, the demarcation was done in the presence of the petitioners representative. However, the petitioner has contested this point by submitting that on one of the demarcation reports her attorneys signature is forged (in r/o PL 8/96) and in r/o PL 7/96, the signatures were allegedly taken on the blank papers. This Tribunal found it quite surprising as to how an individual agreed to put his signatures on blank papers. Though the petitioner explained that the signatures were taken under threat on the blank papers, but there is no evidence to prove the contention and does not appear to be convincing. As far as signatures on demarcation report in r/o PL No. 8/96 is concerned, a difference prima-facie appears when seen with a naked eye and whether the same are forged or not, Tribunal (Mines) is not in a position to comment upon. In the normal situation, in such cases of doubt, the Tribunal could have given the relief by way of ordering a fresh demarcation, but in this case, the petitioner has not asked for any such relief.

6. As far as prospecting licence No. 7/97 is concerned, the Revisionary Authority has come to the finding of the fact that the petitioners attorney had signed the papers relating to demarcation. The Revisionary Authority has disbelieved the contention of the petitioner that the signatures of the petitioners attorney were taken on blank papers holding, inter alia, that there was nothing to prove the said allegation. I do not see any reason to interfere with the findings of the Revisionary Authority. There was no reason or cause why the petitioners attorney had signed on blank papers or can claim that under threat from an officer of the State of Rajasthan, blank papers were signed. The petitioner or her attorney did not write any letter with such allegations and protest about the threat. In the reply dated 30th November, 1998 to the show cause notices, allegations of rampant corruption and conspiracy were made by the petitioner but it was not alleged that signatures were obtained on blank papers under threat. No personal

affidavit was filed by the petitioner or her husband mentioning names of the officer(s), who had threatened them. I do not see any reason to interfere with the aforesaid factual findings given in the impugned order dated 22nd December, 2005 in respect of prospecting licence No. PL 7/96.

7. As far as the signatures of the petitioners attorney on demarcation report PL No. 8/96 is concerned, the Revisionary Authority came to a prima facie conclusion that the signatures of the attorney were different from admitted signatures. However, learned Revisionary Authority did not give a final opinion on the said issue and decide whether or not the signatures were forged or fabricated. In the last sentence of the paragraph in the order dated 22nd December, 2005, quoted above, learned Revisionary Authority has held that normally an order of fresh demarcation would have been passed but the petitioner had not prayed for any such relief, therefore, no order was being passed. In this regard, it will be appropriate to reproduce the prayers made in the review application which have been quoted in the paragraph-7 of the impugned order itself and read:

(i) To declare learned Tribunal orders No. 21/2003 and 22/2003 both dated 6-3-2003 and State Govt. orders dated 10-6-1999 and 8-3-2000 and all the impugned act and proceedings or respondents No. 1 to 3 as ultra-vires of the Act.

(ii) To seize, summon & confiscate all the original relevant records/documents of respondent No. 1 to 3 along with alleged original demarcation reports and field books pertaining to PL No. 7/96 and 8/96.

(iii) To direct the respondents to compensate petitioner by paying Rs. 2, 350 crores on humanitarian grounds for causing personal and legal injury to her.

(iv) To direct UoI to make senior bureaucrats/authorities more responsible and sensitive.

(v) To appoint Amicus Curie to plead the case with a direction to take up the matter on high priority and expeditiously as the petition is on the verge of collapse out of frustration.

8. The petitioner had specifically challenged the order of the State Government dated 8th March, 2000 in respect of the prospecting licence No. 8/96. Prayer made was that the said order should be declared ultra vires and bad. Under Rule 55(4) of the Mineral Concession Rules, 1960, the Revisionary Authority has following powers while deciding a revision petition:

55(4) After considering the records referred to in Sub-rule (3), the Central Government may confirm, modify or set aside the order or pass such other order in relation thereto as the Central Government may deem just and proper.

9. Thus, the Revisionary Authority has the power to confirm, modify or set aside an impugned order or pass any such order, which it deems just and proper. The powers of the Revisionary Authority are wide and broad. Accordingly, the order of

the Revisionary Authority in respect of the prospecting licence No. 8/96 is set aside and the matter is remanded back to the Revisionary Authority to determine the same in terms of the prayer 1 made above in the review petition. It may be noted here that the counsel for the petitioner during the course of arguments has submitted that they are interested in grant of prospecting licence. As far as prayer of the petitioner for grant of compensation is concerned, the same cannot be decided or adjudicated by the Revisionary Authority. The Revisionary Authority has been created under the Act and Rules and its power circumscribed by the statute itself. The Revisionary Authority does not have any power to grant or compute compensation. It is open to the petitioner to claim compensation, if so advised, by filing appropriate proceedings in civil court.

10. The writ petition is accordingly disposed of. The Revisionary Authority will decide the revision petition in respect of PL 8/96, as if it has not been disposed of. For this purpose, order dated 25th January, 2005 and earlier order dated 6th March, 2003 will be treated as set aside. The Revisionary Authority will not be influenced by the earlier orders and apply its own mind. It will be open for the petitioner to amend or modify the prayers made in the revision petition, if so advised and required. No costs.