
(2012) 10 JH CK 0012

In the Jharkhand High Court

Case No : Writ Petition (C) No. 4304 of 2007

Chandra Shekhar Alani

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 09-10-2012

Acts Referred:

Citation : (2012) 10 JH CK 0012

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Satish Kr. Keshri, for the Appellant; Shamim Akhtar, SC (Mines) for the State, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh

1. Heard counsel for the parties. The petitioner is aggrieved by the order dated 03rd July 2007 passed by the Deputy Commissioner, Pakur (Respondent No. 3) in R.M.P. Case No. 23 of 2006 on remand by the Revisional Authority i.e. Mines Commissioner, Jharkhand, Ranchi (Respondent No. 2) in Revision Case No. 36 of 2005, whereby the respondent No. 3 has allotted the lease for minor minerals in favour of M/s Dani Nath Stone Works (respondent No. 5) in respect of mining lease area over Dag No. 226, Block No. 23 having an area of 4.23 acres of Mouza-Mal Pahari.

2. Counsel for the petitioner submits that earlier in the Revision Case No. 36 of 2005, the Mines Commissioner, Jharkhand, Ranchi by order dated 10th February 2006, had remanded the matter to the Deputy Commissioner, Pakur (Respondent No. 3) to hear the applicant and other interested persons and pass a reasoned order in accordance with law within a stipulated time. However, fresh application for grant of lease of area in question has been refused on the ground that there are huge outstanding dues against the petitioner as well as other persons, though there is no document in respect of any outstanding dues against the

petitioner, whereas the respondent No. 5 was granted lease over the area in question on the ground that he fulfills all the criteria as required under the Jharkhand Minor Mineral Concession rules, 2004. Counsel for the petitioner has relied upon Rule 13 (iii) of the Jharkhand Minor Mineral Concession. Rules, 2004 and submits that the petitioner fulfills all the necessary criteria for grant of mining lease.

3. Counsel for the respondents, on the other hand, by referring to the statements made in the counter affidavit, submits that on remand, after hearing the applicant, fresh lease for mining the area in question has been granted in favour of the respondent No. 5 as it fulfills all the required criteria under the Rules of 2004 for the period of ten years. It is further submitted that there are huge outstanding dues against the father, grandfather and grandmother of the petitioner in respect of the liability towards royalty and interest for earlier lease hold land, due to the Government for which certificate proceedings have been initiated, but till date, dues have not yet been deposited. Counsel for the respondent submits that more than Rs. 30 lakhs are outstanding against the family members of this petitioner which have further increased on account of recurring interest.

4. In terms of Rule 13(iii) of the Jharkhand Minor Mineral Concession Rules, 2004, the eligibility criteria for fresh lease to an applicant is to be considered taking into account the financial strength and stability of the applicant. Since it was found that the family members of the petitioner i.e. his father, grandfather and grandmother have huge outstanding dues against the royalty due to the Government for earlier lease hold land for mining minerals, the competent authority did not consider it proper to grant lease in favour of the petitioner and it cannot be found fault with.

5. I have heard learned counsel for the parties and gone through the impugned orders and the relevant rules. It is apparent that on remand, the impugned order has been passed by the Deputy Commissioner taking into account the huge outstanding liability against royalty in respect of the earlier lease granted in favour of the father, grandfather and grandmother of the petitioner totally amounting to more than Rs. 30.00 lakhs for which certificate proceedings have already been initiated for its realization. Even Rule 13 also require financial stability of the applicant while considering application for grant of fresh lease. The exercise of power by the competent authority cannot be said to be erroneous or suffering from non-application of mind. The petitioner has also not approached the revisional authority and straightaway invoked the writ jurisdiction of this court. For the reasons stated above, I do not find any infirmity in the impugned order. The writ petition is accordingly dismissed.