

(2022) 12 GUJ CK 0011

In the Gujarat High Court

Case No : R/Special Civil Application No. 7670 Of 2022

G L Minerals Private Co. Ltd

APPELLANT

Vs

State Of Gujarat & 2 Other(S)

RESPONDENT

Date of Decision : 19-12-2022

Acts Referred:

Gujarat Minor Mineral Concession Rules, 2017 — Rule 29

Citation : (2022) 12 GUJ CK 0011

Hon'ble Judges : Biren Vaishnav, J

Bench : Single Bench

Advocate : R.K.Mansuri, Rohan Shah, Maulik G Nanavati

Final Decision : Disposed Of

Judgement

Biren Vaishnav, J

1. Rule returnable forthwith. Mr. Rohan Shah, learned Assistant Government Pleader waives service of notice of rule on behalf of the respondent nos. 1 – 3 and Mr. Maulik Nanavati, learned Advocate, waives notice on behalf of respondent no. 4.

2. The prayer in the present petition is for issuance of a direction to the State Government to pass an order for grant of quarry lease for mining bentonite / black trap mineral in terms of Letter of Intent dated 26.05.2017 and consequential order for execution of a lease deed before the cut-off date of 23.05.2022 without insisting on compliance by the petitioner of all the conditions mentioned in the Letter of Intent.

3. The petitioner had made an application seeking quarry lease for bentonite / black trap mineral and was issued a Letter of Intent on 26.05.2017. This Letter of Intent enumerated various conditions which were to be fulfilled by the petitioner, like obtaining Environment Clearance, approved mining plan, valuation from stamp duty department, etc. On fulfillment of these conditions, an order granting quarry lease in favour of petitioner would be made by the government

and a formal lease deed will be executed permitting the petitioner to commence mining of the mineral from the leased area.

4. Mr. Mansuri, learned Advocate for the petitioner, has submitted that the petitioner has complied with all conditions of Letter of Intent except obtaining Environment Clearance. The petitioner has made an application for grant of Environment Clearance but for reasons beyond control of the petitioner the State Environment Impact Assessment Authority has not yet granted the Environment Clearance. Learned Advocate has further submitted that after the issuance of Letter of Intent, Gujarat Minor Mineral Concession Rules, 2017 came into force and Rule 29 thereof provided that the "government shall issue an order in writing for grant of a quarry lease to the holder of a letter of intent upon satisfaction of the following conditions within a period of two years from the date of commencement of these rules, failing which the right of such an applicant for grant of a quarry lease shall be forfeited automatically". This time period of 02 years was extended by subsequent amendments, and lastly stood extended upon 23.05.2022. Believing that the petitioner will not receive the Environment Clearance on or before 24.05.2022 and apprehending that in absence of a formal order granting quarry lease being passed by the government before the said date the petitioner shall lose right to get the quarry lease in view of expiration of the time period prescribed in Rule 29 of the Gujarat Minor Mineral Concession Rules, 2017, the petitioner approached this Court by filing the present petition.

5. A Co-ordinate Bench of this Court passed the following order on 2.05.2022:

"1. Heard Mr. R. K. Mansuri, learned counsel appearing for the writ-applicant, Mr. Ishan Joshi, learned Assistant Government Pleader appearing for the respondent Nos. 1 to 3 - State authorities and Mr. Maulik Nanavati, for Nanavati & Co. appearing for the newly added party respondent no.4.

2. Mr. R. K. Mansuri, learned counsel submitted that Letter of Intent has been issued in favour of the writ-applicant, and that the writ-applicant has complied with almost all the conditions mentioned in the Letter of Intent. Mr. Mansuri, learned counsel further submitted that the writ-applicant has applied for grant of Environment Clearance by making an appropriate application to the State Environment Impact Assessment Authority. However, the final clearance certificate has not been issued or granted by the Authority. Mr. Mansuri, learned counsel further contended that in the event the formal order of quarry lease is not made by the Government and a lease deed is not executed by the District Collector on or before 24.05.2022, the right of lease in favour of the writapplicant would stand forfeited.

3. Mr. Mansuri, learned counsel relied on the order passed by the coordinate bench of this Court in Special Civil Application No. 7 of 2017 and Special Civil Application No. 6602 of 2021 with allied matters.

4. Having heard the learned counsel appearing for the respective parties, it is hereby directed that: (I) The writ-applicant shall file an undertaking before the

respondent- Collector within a period of two weeks from the date of the receipt of the copy of the present order to the effect that the writ-applicant shall not commence or carry out any mining activity till the Environment Clearance certificate is issued in favour of the writ-applicant. (II) The State Government shall issue a formal order granting quarry lease within a period of 02 weeks from today and the District Collector shall thereafter execute the lease deed within a period of 02 weeks on filing of undertaking. The entire exercise of issuance of formal order granting lease and the execution of lease deed is directed to be completed on or before 24.05.2022; (III) In the meantime, the State Environment Impact Assessment Authority is directed to complete and/or facilitate completion of all formalities leading to grant of Environment Clearance, and issue such instructions as may be necessary to the concerned agencies.

5. Matter to be listed for further hearing on 05.07.2022. Direct service is permitted.”

6. Mr. Mansuri, learned Advocate appearing for the petitioner has stated that in terms of the interim order dated 2.05.2022 his client has submitted an undertaking declaring that the petitioner shall not commence or carry out any mining activity till the Environment Clearance certificate is issued by the competent authority. He has further submitted that during pendency of the present petition the Environment Clearance certificate has been granted by the State Environment Impact Assessment Authority. He has submitted that directions issued by this Court on 2.05.2022 to the government for making an order granting quarry lease has been complied with and an order granting quarry lease has been made by the government. However, the formal lease deed has not yet been executed.

7. Learned Assistant Government Pleader has submitted on instructions that the interim direction issued by this Court on 2.05.2022 to the extent of execution of lease deed could not be complied with as the petitioner did not furnish all the requisite documents like performance security necessary for execution of the lease deed.

8. At this stage, learned Advocate for the petitioner submits that his client shall make available all the information and documents as may be required by the District Collector within a period of 04 weeks.

9. Recording the assurance given by the learned Assistant Government Pleader as well as learned Advocate appearing for the petitioner, the petition is disposed of with a direction that the petitioner shall comply with all the pre-requisites for execution of lease deed within a period of 04 weeks from date of receipt of copy of this order and the District Collector shall execute the formal lease deed in favour of petitioner within a period of 04 weeks thereafter. To the aforesaid extent, the time prescribed in the interim order dated 2.05.2022 stands extended.

10. With the aforesaid observations, the petition is disposed of with no order as

to costs.