
(2021) 05 UK CK 0039

In the Uttarakhand High Court

Case No : Writ Petition (M/S) No. 978 Of 2021

Kiran Singh Fartyal

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

Date of Decision : 18-05-2021

Acts Referred:

Citation : (2021) 05 UK CK 0039

Hon'ble Judges : Manoj Kumar Tiwari, J

Bench : Single Bench

Advocate : B.S. Adhikari, Devesh Upreti, G.S. Negi

Final Decision : Disposed Of

Judgement

Manoj Kumar Tiwari, J

1. By means of this writ petition, petitioner has sought following reliefs:

i. Issue a writ, order or direction in the nature of Certiorari quashing the mining lease dated 17.02.2021, mentioned in Annexure-10, executed in

favour of the respondent no. 5 so far as it relates to 7.784 hectare area of village Karuli, Tehsil & District Bageshwar.

ii. Issue a writ, order or direction in the nature of Mandamus by commanding the respondent no. 1 to conduct an inquiry against the fraud and

manipulation committed by respondents no. 4, 6 & 7 by excluding the name of the petitioner from mining lease though petitioner was verywell

applicant in the original application form dated 01.12.2015.

iii. Issue a writ, order or direction in the Nature of Mandamus by directing the respondents no. 1 & 2 to execute a fresh mining lease deed in favour of

the petitioner and respondent no. 5 as per original application dated 01.12.2015.

2. According to the petitioner, he entered into a joint venture agreement with a firm consisting of two partners, namely, M/s Balraj Associates.

Thereafter, an application was made for grant of a mining lease on 01.12.2015, which was signed by the partners of M/s Balraj Associates and also

the petitioner as an applicant. Perusal of the application however indicates that in Clause No. 2 of the application, status of the applicant is shown as

â??Firmâ??.

3. Petitioner is aggrieved by the order dated 17.02.2021 passed by the State Government, whereby Director, Mining has been asked to execute a mining lease in favour of M/s Balraj Associates.

4. According to the petitioner, since he entered into a joint venture agreement with the partnership firm, namely, M/s Balraj Associates and he had also signed the application for grant of mining lease as applicant, therefore, petitioner could not have been left out from grant of mining lease.

5. Per contra, learned Additional C.S.C. submits that petitioner has raised a private dispute with the partners of M/s Balraj Associates, which cannot

be adjudicated in a public law remedy of a writ petition. He further submits that the joint venture agreement alleged to have been executed between

petitioner and the partnership firm is unregistered, therefore, petitioner cannot claim any benefit on the strength of such agreement. He further submits

that execution of joint venture agreement cannot confer the status of partner upon the petitioner and the application, which was submitted for grant of

mining lease, was only on behalf of the partnership firm.

6. After arguing for a while, learned counsel for the petitioner confines his prayer and submits that petitioner may be permitted to make a detailed

representation to District Magistrate, Bageshwar with a direction to District Magistrate to consider the same.

7. Having regard to the facts & circumstances of the case, the writ petition is disposed of with liberty to petitioner to make fresh representation to

District Magistrate, Bageshwar, within two weeks from today. If such representation is made within stipulated time, District Magistrate, Bageshwar

shall look into the matter and pass appropriate order, in accordance with law, within twelve months from the date of receipt of representation

alongwith certified copy of this order.

8. While taking decision on petitionerâ??s representation, District Magistrate shall

afford opportunity of hearing to the partners of M/s Balraj Associates.