
(2016) 04 JH CK 0038
In the Jharkhand High Court
Case No : W.P.(C) No. 1703 of 2016.

Krishna Kumar Poddar

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 05-04-2016

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 8

Citation : (2016) 2 AIRJharR 574

Hon'ble Judges : Aparesh Kumar Singh, J.

Bench : Single Bench

Advocate : Biren Poddar, Sr. Advocate, Darshana Poddar, Piyush Poddar & Khushboo Kataruka, Advocates, for the Appellant; Ajit Kumar, A.A.G, & Kumar Sundaram, J.C to A.A.G, for the Respondent

Final Decision : Disposed Off

Judgement

Aparesh Kumar Singh, J. - Learned counsel for the petitioner is permitted to implead the Director, Mines and Geology, Department of Mines, Government of Jharkhand, Ranchi as respondent No. 7 for which necessary correction shall be carried out by learned counsel for the petitioner in the array of parties during course of the day.

2. Heard learned counsel for the parties.

3. Petitioner is a lessee of major mineral, Graphite, lease deed of which was executed on 5.3.1990 and extended by the State Government on 20.5.2008 for a period up to 4.3.2010 over an area of 4.93 hectares situate at village Murma, P.S. Daltonganj, Survey Plot No. 46P. The Deputy Commissioner, Palamau by letter No. 1372 dated 12.3.2016, Annexure-13 asked the petitioner to submit his reply on the following issues:-

(i) whether the petitioner has obtained environmental clearance in respect of the lease hold area.

(ii) whether consent to operate has been obtained from the State Pollution Control Board.

(iii) whether the mining carried by it is without the revised mining plan, which is in teeth of the provisions of law.

(iv) Petitioner's lease hold area being situate next to Malay Dam is likely to lead to a serious accident in near future.

4. By the impugned order, petitioner was restrained from mining. In the mean time, petitioner in his response at annexure-14 dated 15.3.2016 has sought to dispel each of the allegations made inter-alia stating that as per the MOEF notification dated 4.1.2013, environmental clearance for the project of major minerals of a lease area less than 5 hectare is not required ; the issuance of consent to operate in favour of the petitioner earlier in 2014 by the State Pollution Control Board would be deemed to have continued in terms of the Section 25(7) of the Water (Prevention and Control of Pollution) Act, 1974 as despite application for renewal made, no order refusing the same has been passed within period of 4 months thereafter. Reliance has also been placed upon approved mining plan, which has been modified, as contained in Annexure-6 dated 21.12.2015 issued by the Indian Bureau of Mines, Ministry of Mines, Government of India. Petitioner therefore has alleged that without any prior notice, mining activities have been suspended by the impugned order, which entails serious adverse civil consequence and in violation of principles of natural justice.

5. The Deputy Commissioner, Palamau has referred the matter to the Director, Mines and Geology through memo No. 357 dated 17.3.2016 mentioning the earlier order restraining mining operation of the petitioner dated 12.3.2016 and the reply furnished by the petitioner for taking an informed decision in the matter. Petitioner however has approached this Court seeking quashing of the letter dated 12.3.2016 (Annexure-13) issued by the respondent No. 3.

6. Having considered all the rival pleas of the petitioner and the respondents, this Court is of the view that at this stage, it would be proper to direct the competent authority under the department of Mines and Geology/respondent No. 7, Director, Mines and Geology, Government of Jharkhand to take an informed decision in the matter after consideration of all the materials placed by the petitioner in the light of the show cause notice issued upon him dated 12.3.2016, reply (Annexure-14) and all statutory notification, instructions, rules, regulations and provisions of M.M.D.R. Act, 1957 on the point. The competent authority/respondent No. 7 would also take into account whether the petitioner has complied with the statutory requirement and obtained necessary clearance as required under law for continuing with the mining operation in respect of the lease hold area of Graphite mines in question.

7. Since, the mining operation has been suspended by the impugned notice dated 12.3.2016, it would be proper if an early decision is taken in the matter by

the competent authority/respondent No. 7 preferably within a period of 3 weeks from the date of receipt of the copy of this order. Needless to say that competent authority/respondent No. 7 would accord at least one opportunity of hearing to the petitioner or his legal representative.

Petitioner would appear before the respondent no. 7 along with copy of this order and entire pleadings of the writ petition on 11.4.2016 where after the respondent no. 7, Director, Mines and Geology would proceed and consider the matter in accordance with law within the period as indicated herein above.

8. The writ petition is disposed of in the aforesaid terms. It is made clear that observations made herein above shall not be treated as comment on the merit of the case.