
(2011) 09 DEL CK 0222

In the Delhi High Court

Case No : Writ Petition (C) 6540 of 2011 and CM No. 13179-13181 of 2011

M. Amithkumar

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 14-09-2011

Acts Referred:

Mines and Minerals (Development and Regulation) Act, 1957 — Section 30, 31
Mines and Minerals (Regulation and Development) Rules, 1957 — Rule 24A

Citation : (2011) 09 DEL CK 0222

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : K.B. Shiva Kumar, for the Appellant; Sweety Manchanda, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petition inter alia impugns the order dated 30th June, 2011 of the Revision Authority (Central Government) under the Mines and Minerals (Development & Regulation) Act, 1957 rejecting the revision application preferred by the Petitioner and confirming the order dated 13th May, 2010 of the Director, Department of Mines & Geology, Bangalore, Karnataka rejecting the application of the Petitioner for renewal of a mining lease as time barred.

2. One Shri Venkataswamy Naidu was on 28th January, 1956 granted a mining lease for Iron Ore over an area of 19 acres in Devgiri Village, Sandur Taluk, Bellary District for a period of 20 years. The said mining lease expired on 27th January, 1976. The Petitioner, claiming to be the grandson of aforesaid Shri Venkataswamy Naidu, on 23rd June, 2009 applied for renewal thereof.

3. The Respondent No. 3 Director, Department of Mines & Geology, Bangalore, Karnataka issued a notice dated 19th April, 2010 to the Petitioner to show cause as to why the application for renewal be not rejected as time barred. The Petitioner submitted a detailed reply to the said application.

4. As aforesaid, the Director, Department of Mines & Geology, Bangalore, Karnataka vide order dated 13th May, 2010 rejected the application holding that under Rule 24A(1) of the Mineral Concession Rules, 1960 the renewal application should have been made to the State Government at least 12 months before the date on which the lease was due to expire i.e. on or before 27th January, 1975 but had been filed after 35 years and under Rule 24A(10) there is no provision for considering the renewal application filed after the expiry of period of mining lease or to condone the delay in applying therefore .

5. It was the case of the Petitioner before the Director, Department of Mines & Geology, Bangalore, Karnataka that in six other cases, the mining leases had been renewed on the basis of applications filed after the expiry of the period of mining lease and hence the case of the Petitioner should also be considered compassionately and without showing any discrimination. However it was held that there being no power to entertain the application for renewal filed after the expiry of lease, no relief could be granted to the Petitioner.

6. Aggrieved therefrom, the Petitioner preferred the Revision Petition u/s 30 of the Act read with Rule 55 of the Rules of the Central Government.

7. The Central Government also in the order dated 30th June, 2011 impugned herein has held that there being no provision for consideration of renewal application filed after the expiry of period of mining lease by the State Government and/or there being no power in the State Government to condone the delay, no error could be found in the order of the State Government.

8. The Petitioner has before this Court stated that his grandfather Shri Venkataswamy Naidu died on 2nd January, 1965; that his father applied for renewal on 22nd November, 1969 but the file vide which the renewal was applied was lost; that his father died on 12th May, 2006 and in these peculiar circumstances, the delay occurred.

9. The counsel for the Petitioner however fairly admits that there is no proof of any application for renewal having been made on 22nd November, 1969; no discussion on the said aspect is found in the order of the State Government or of the Central Government; the counsel for the Petitioner has also not pressed the said aspect.

10. The counsel for the Petitioner has also not controverted the reasoning given by the State Government as well as the Central Government that under the Act and the Rules there is no power in the State Government to entertain an application for renewal preferred after the expiry of the mining lease. The only contention of the counsel for the Petitioner is that u/s 31 of the Act, the Central Government is empowered inter alia to authorize renewal of mining lease on terms and conditions different from those laid down in the Rules. It is thus contended that the Central Government was empowered to condone the delay in applying for renewal of the mining lease.

11. The fact of the matter however is that the Petitioner did not apply to the Central Government u/s 31 for condoning the delay in applying for renewal. The Petitioner himself approached the State Government only for renewal. Upon the same being put to the counsel for the Petitioner, he states that the Petitioner could have applied to the State Government only for renewal and had in reply to the show cause notice aforesaid called upon the State Government to forward the application for renewal for consideration by the Central Government u/s 31 of the Act. He contends that the State Government erred in not forwarding his application for renewal to the Central Government.

12. The counsel for the Petitioner is however unable to show any Rule under which the State Government was so required to forward the application for renewal of the Petitioner to the Central Government or which prohibited the Petitioner from directly approaching the Central Government for granting renewal in exercise of powers u/s 31 of the Act.

13. Reliance in this regard is placed on:

(i) Harkaran Das Mangilal and Another Vs. Union of India (UOI) and Others, - however all that this judgment recognizes is the power of the Central Government to condone the delay in applying for renewal of lease (and which is amply clear from a bare reading of Section 31) and remands the matter to the Central Government for recording reasons as to why the delay could not be condoned in that case;

(ii) Sri Nand Lal Jain v. The State of Bihar, (1980) 3 SCC 317 - this is also a case where the matter was remanded to the Central Government to consider whether delay ought to be condoned or not;

(iii) Judgment dated 23rd January, 2009 of the High Court of Karnataka in Writ Petition No. 365/2009 titled M/s. Mysore Stone Ware Pipes & Potteries Ltd. v. Deepchand Kishanlal - also on the proposition that though the State Government has no power to condone the delay, such power vests in Central Government;

Thus neither of the aforesaid supports the contention of the Petitioner that the Petitioner could have applied for renewal to the State Government only and the State Government was obliged to forward the same to the Central Government.

14. Moreover in the present case, even though the Petitioner did not invoke the powers of the Central Government u/s 31 of the Act; the Petitioner nevertheless approached the Central Government by way of revision against the order of the State Government. The Petitioner in the said Revision Petition also referred to Section 31 of the Act and to various other cases where according to the Petitioner the delay had been condoned by the Central Government. It is thus not as if the Central Government, while passing the order dated 30th June, 2011 impugned in this petition, was not conscious of Section 31 of the Act; notwithstanding the same, the Central Government in the impugned order has confirmed the order of the State Government. It is thus safe to conclude that the

Central Government, in the facts of the case, was not of the opinion that it is necessary to condone the long delay of 35 years in applying for renewal of the lease or that such renewal was in the interest of mining development.

15. I may also notice that neither in the Revision Petition before the Central Government nor in the petition before this Court there is any pleading as to how the renewal sought by the Petitioner is in the interest of mining development. The only pleading is that re-granting of mining lease would be a cumbersome procedure and in the matter of such re-granting also, the Petitioner would be a preferred claimant. There is no averment even that any mining operations were commenced at any time. Rather, in the petition before this Court, it is stated that the Respondent No. 3 Director Department of Mines & Geology, Bangalore had no jurisdiction to reject the renewal application since the area is a forest area and powers with respect thereto had not been delegated by the State Government to the Director, Department of Mines & Geology, Bangalore, Karnataka. Per contra, it appears that the Petitioner/his predecessors have interfered with the mining development by their conduct aforesaid.

16. Since in the order of the Central Government there is no express language indicating that no grounds for condonation of delay were found, I have pondered over the viability of the course of remanding the matter to the Central Government for considering the said aspect, as also sought by the counsel for the Petitioner.

17. However I am of the opinion that the entirety of the facts having already been before the Central Government while making the order dated 30th June, 2011 impugned in this petition, mere non-reference to Section 31 of the Act in the order does not call for such remand. The Supreme Court has recently in *State of Uttaranchal and Another Vs. Sunil Kumar Vaish and Others*, has held that Courts ought not to remand the matters for further/afresh consideration when the dispute is otherwise ripe for adjudication by Courts and that duty is cast on the Judges to give finality to the litigation so that the parties would know where they stand. In the circumstances, no purpose would be served in remanding the matter to the Central Government.

18. The counsel for the Petitioner has also contended that the Central Government erred in proceeding with the matter without the State Government responding to the Revision Petition. However the same is not found to constitute a ground for challenging the order of the Central Government. The counsel has been unable to show as to how the Petitioner has been prejudiced owing to the State Government having chosen not to appear before the Revisional Authority.

19. The counsel for the Petitioner has lastly invited attention to the prayer (d) in the writ petition seeking a mandamus to the State Government to consider a fresh application dated 6th November, 2009 stated to have been filed by the Petitioner for renewal and with a further direction to the State Government to forward the same to the Central Government for consideration u/s 31 of the Act.

20. The Petitioner is not found entitled to the said relief also. The territorial jurisdiction of this Court has been invoked owing to the Revisional Authority whose decision is being impugned within the jurisdiction of this Court. Else, this Court has no territorial jurisdiction to issue any direction to the Respondent Government of Karnataka.

21. I am further of the view that there is absolutely no explanation for the long delay of 35 years in applying for renewal. No case of the renewal being in the interest of mining development is also made out. For this reason also the Petitioner is not found entitled to any relief in the equity jurisdiction of this Court.

22. There is thus no merit in the petition; the same is dismissed. I refrain from imposing any costs on the Petitioner.