
(2004) 03 JH CK 0066

In the Jharkhand High Court

Case No : Writ Petition (C) No. 1285 of 2002

Marshal Dahar Audogik Sahyog Samiti

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 18-03-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 2 JCR 250

Hon'ble Judges : Amareshwar Sahay, J

Bench : Single Bench

Advocate : R.S.P. Sinha, for the Appellant; B.S. Lall, A.A.G. and Krishna Murari, for the respondent No. 5, for the Respondent

Final Decision : Dismissed

Judgement

Amareshwar Sahay, J.—Heard Mr. R.C.P. Sinha, learned counsel for the petitioner, Mr. B.S. Lall, learned counsel appearing for the State and Mr. Krishna Murari, learned counsel appearing for private respondent No. 5.

2. The prayer of the petitioner in this writ application is for quashing of the order dated 26.07.2000, as contained in Annexure 3, whereby the Assistant Mining Officer, Ranchi cancelled the mining lease, granted in favour of the petitioner, for the rest of the period.

3. The learned counsel for the petitioner has submitted that the order, as contained in Annexure 3, cancelling his mining lease, was passed without issuing any notice to show cause and, therefore, the same is bad in law. The learned counsel for the petitioner next contended that on 16.11.2000, the respondents issued Annexure 4 whereby the petitioner was asked to show cause as to why the mining lease be not cancelled and therefore, it would mean that the earlier order dated 27.07.2000 cancelling the mining lease was withdrawn or superseded by subsequent order. The learned counsel for the petitioner next contended that the order passed by the Revisional Authority as contained in

Annexure 8 is bad In law, as no reason for rejection of the revision petition has been assigned by the Revisional Authority.

4. Mr. B.S. Lall, learned counsel appearing for the State on the basis of the averments made In the counter-affidavit made his submissions and drew my attention to Annexure 4 to the counter-affidavit, i.e., the letter as contained in Memo No. 313 dated 29.02.2000 and submitted that it is wrong to say that no notice to show cause given to the petitioner before cancellation of the mining lease. As a matter of fact a notice by registered post was given to the petitioner asking him to file show cause within 30 days as to why the mining lease should not be cancelled oh the grounds mentioned therein. Thereafter; Annexure 3 the order, cancelling the mining lease was passed after five months, i.e., in the month of July, 2000, This statement of the respondents made in the counter-affidavit has not been refuted by the petitioner by filing any rejoinder. From a careful perusal of Annexure 4, i.e., the notice dated 16.11.2000 it appears that in fact it was not a notice for cancellation of mining lease rather it was a notice asking the petitioner to deposit the amount due against him on account of rent and penalty, etc. Therefore, the submission of the petitioner that the order of cancellation of mining lease was withdrawn or superseded by Annexure 4 can't be accepted.

5. From the order of the Revisional Authority it appears that the petitioner filed the revision application not against the order cancelling his mining lease as contained in Annexure 3 but against the order by which subsequently, the lease was granted in favour of the private respondent No. 5 after cancelling the mining lease in favour of the petitioner. Therefore, it is clear that no revision was filed against the order cancelling the mining lease. In view of the discussions and findings above, I do not find any merit in this writ application. Accordingly, it is dismissed.