
(2000) 05 RAJ CK 0071
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2978 of 1999

Mohd. Nisar

APPELLANT

Vs

The State of Rajasthan and Others

RESPONDENT

Date of Decision : 08-05-2000

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2000) 3 RLW 1807 : (2000) 3 WLC 170 : (2000) 2 WLN 309

Hon'ble Judges : B.J. Shethna, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.J. Shethna, J.—The petitioner submitted an application for plot No. 412 before the Mining Engineer, Jodhpur, which was accepted by an order dated 28.4.1998 (Annex. 1) passed by the respondent No. 3. Mining Engineer, Jodhpur. Accordingly, the petitioner deposited Rs. 2625/- on 2.5.1998 (Annex. 2). However, he was not issued required licence and instead of that he received an order dated 19.5.1998 (Annex. 3) passed by the respondent No. 3, whereby, the earlier order dated 28.4.1998 (Annex. 1) was cancelled.

2. Against the said order, the petitioner preferred an appeal before the Addl. Director, Mines and Geology Department, Jodhpur which was allowed on 24.7.1998 (Annex. 4) and the case was remanded to the Mining Engineer. In spite of the remand order the Mining Engineer did not issue licence in favour of the petitioner, therefore, the petitioner filed appeal before the State Govt. which was dismissed by an order dated 27.7.1999 (Annex. 5).

3. Surprisingly, the petitioner has prayed in this petition to quash the orders at Annex. 2 to 5 which includes the remand order at Annex. 4. Be that as it may, the petitioner has further prayed that the respondent Mining Engineer, Jodhpur be directed to issue the licence in favour of the petitioner in respect of quarry No. 412 situated in Chana Ka Badia.

4. Learned counsel Shri Tak for the petitioner vehemently submitted that once the sanction is given to the petitioner by the Mining Engineer then it cannot be subsequently cancelled without giving any notice to him. He, therefore, submitted that the impugned order at Annex. 3 cancelling the earlier order (Annex. 1) is in violation of principle of natural justice, therefore, it may be quashed and set aside.
5. Learned Addl. Advocate General Shri Jangid for the respondents submitted that the petitioner obtained the order dated 28.4.1998 (Annex. 1) on a forged document from the P.H.E.D., Jodhpur giving no objection certificate (N.O.C.) by adding the last line in the order dated 30.3.1998
6. He, therefore, submits that without going into the merits of the case the petition is required to be dismissed solely on this ground.
7. In support of his submission Mr. Jangid has relied upon the original order dated. 30.3.1998, wherein, the aforesaid last line was not mentioned. This has been stated on oath in reply affidavit by the respondents.
8. From the reply affidavit it is clear that somehow or the other the petitioner managed to get the order dated 30.3.1998 and produced the same before the authorities by inserting the aforesaid last line, which is clear from the order dated 22.8.1998 (Annex. R/4) passed by the Mining Engineer, Jodhpur. For this, the Mining Engineer had recommended the Executive Engineer vide letter to file F.I.R. against the petitioner for committing forgery in the Govt. record.
9. The petitioner has filed rejoinder to the aforesaid averments made by the respondents in their reply affidavit, but he was unable to explain this.
10. In my considered opinion, such persons like the petitioner who obtained sanction order in their favour by committing forgery in the Govt. record are not entitled for any relief from this Court in its extra ordinary jurisdiction under Article 226 of the Constitution of India or in its Supervisory jurisdiction under Article 227 of the Constitution of India.
11. In such type of cases, giving an opportunity of hearing before passing the order of cancellation is meaningless. There are certain cases, wherein, principle of natural justice will not apply. This is that type of case.
12. In view of the above discussion, without going into the merit of the case, this petition is dismissed.