

(2012) 07 BOM CK 0087
In the Bombay High Court
Case No : Writ Petition No. 347 of 2012

Mr. Antonio Shunit Joao De Erasmo Sequeira and Others	APPELLANT
Vs	
The Revisional Authority (Central Government), Ministry of Mines, Krishi Bhavan, New Delhi, State of Goa and The Director of Mines and Geology, Government of Goa	RESPONDENT

Date of Decision : 19-07-2012

Acts Referred:

Citation : (2012) 07 BOM CK 0087

Hon'ble Judges : A.P. Lavande, J

Bench : Single Bench

Advocate : M.S. Sonak, for the Appellant; D. Lawande, Government Advocate for Respondents No. 2 and 3, for the Respondent

Judgement

A.P. Lavande, J.—Heard Mr. Sonak, learned Counsel for the petitioners and Mr. Lawande, learned Government Advocate for respondents no.2 and 3. Rule. By consent, heard forthwith.

2. Notice to respondent no.1 being Tribunal, is dispensed with.

3. By this petition, the petitioners take exception to the order dated 30/12/2011 of respondent no.1 by which the revision preferred against the order dated 07/03/1990, has been dismissed.

4. The Revisional Authority held that from the power of attorney, it appeared that the power of attorney holder had purchased all the rights in respect of the mine in question clearly in breach of rule 37 of Mineral Concession Rules. Respondent no.1 held that the applicants/ petitioners herein had no locus standi to file the revision application.

5. According to Mr. Sonak, learned Counsel appearing for the petitioners, several contentions had been raised by the petitioners in the revision application filed by the petitioners as well as in the written submissions filed by the petitioners. However, respondent no.1, without adverting to the said contentions, dismissed

the revision application solely on the ground that there was breach of rule 37 of the Mineral Concession Rules, 1960. This finding was given on the basis of the power of attorney, upon which reliance was placed by the petitioners. The petitioners had filed revision application through the power of attorney Shri Bhalchandra Bakhle. Mr. Sonak, placing reliance upon the judgment of the learned Single Judge dated 24/02/2012 in Writ Petitions No.142 and 146 of 2012, submitted that in identical situation, the learned Single Judge of this Court has set aside the orders passed by the Revisional Authority and has remanded the matter for deciding the revisions afresh. Mr. Sonak further submitted that several contentions have not been taken into account by respondent no.1 while passing the impugned order.

6. Mr. Lawande, learned Government Advocate appearing for respondents no.2 and 3 leaves the matter to the Court.

7. Having considered the submissions made by the learned Counsel for the petitioners and having perused the record, I am of the considered opinion that the impugned order is liable to be set aside. The only ground on which the Revisional Authority dismissed the revision application is that the revision application was filed by the petitioners herein through Shri Bhalchandra Bakhle, their duly constituted attorney and, therefore, the Revisional Authority came to the conclusion that all the rights in the mine were transferred in favour of the power of attorney clearly in breach of rule 37 of the Mineral Concession Rules. The Revisional Authority, therefore, recorded a finding that the petitioners have no locus standi to file the revision application.

8. The approach of the Revisional Authority in revision application preferred by the petitioners against the order passed by the State Government refusing to renew the lease, is obviously unsustainable in law. The Revisional Authority on the basis of the power of attorney, could not have recorded the above finding. It is pertinent to note that the power of attorney only gives power to the attorney to take various steps in respect of the matters, but that by itself does not mean that the rights in respect of the said mine, have been transferred in favour of the constituted attorney. That is the matter to be investigated by the appropriate authority. Therefore, in my considered opinion, the Revisional Authority ought to have dealt with the matter on merits on the basis of the contentions raised before it by the petitioners.

9. In view of the above, the impugned order dated 30/12/2011 passed by respondent no.1/ Revisional Authority, is quashed and set aside. Respondent no.1 is directed to decide the revision application filed by the petitioners herein afresh in the light of the observations made above, after giving opportunity of being heard to the parties.

10. Rule is made absolute in aforesaid terms. Needless to mention that I have not expressed any opinion on the contentions raised in the petition and all the contentions are kept open.