
(2013) 04 JH CK 0092
In the Jharkhand High Court
Case No : Civil Review No. 5 of 2013

M/s. Shree Balaji Enterprises

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 03-04-2013

Acts Referred:

Citation : (2013) 3 EFLT 641

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Anoop Kumar Mehta, Amit Sinha and Amit Verma, for the Appellant; Ajit Kumar, A.A.G. and Saket Upadhyay, J.C. to A.A.G., for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The petitioner is seeking review of an order dated 23rd January, 2013 passed in W.P. (C) No. 194 of 2013. For better appreciation the order itself is quoted hereunder:

Mr. Ananda Sen, learned counsel for the petitioner, submits that the mining lease in favour of the petitioner stood expired on 2.7.2012; the petitioner has applied for renewal of the lease; application seeking renewal of the lease is pending consideration before the respondents; environmental clearance as well as no objection are required from the Central Government; the petitioner has already applied for no objection as well as environmental clearance. He further submits that the Central Government may take reasonable time to pass appropriate order on the application seeking environmental clearance as well as no objection.

Mr. Ajit Kumar, learned Additional Advocate General, appearing for the respondents, submits that the moment environmental clearance and no objection are received from the appropriate authority, an appropriate decision in accordance with law shall be taken on the application seeking renewal of the lease.

In view of the above, learned counsel appearing for the parties submit that the

present writ petition may be disposed of with the direction that an appropriate decision on the application seeking renewal of lease shall be taken in accordance with law by the respondents after receiving appropriate environmental clearance and no objection from the appropriate authority and, meanwhile, parties shall maintain status quo on the spot and shall not create any third party interest. They further submit that the Central Government may also be directed to take appropriate decision on the application of She petitioner seeking environmental clearance as well as no objection within such time as this Court deems fit.

The present writ petition is thus disposed of with the direction mat the Central Government shall take appropriate decision on the application seeking environmental clearance as well as no objection, in accordance with law, preferably within two months from today. The respondents shall take appropriate decision, in accordance with law, on the application of the petitioner, seeking renewal of mining lease, preferably within two months, thereafter. Meanwhile the parties shall maintain status quo on the spot and no third party interest shall be created by the parties. It is clarified mat the order of states quo shall not be construed to mean any license to the petitioner to undertake the mining activities at the spot.

2. The ground for seeking a review on behalf of the petitioner is that in the main writ application the order passed by the Mines Commissioner dated 29th December, 2012 contained in Memo No. 977/MC Ranchi dated 31st December, 2012 was under challenge. However, it is submitted that the learned Single Judge proceeded to pass the order under review dated 23rd January, 2013 without addressing itself to the main relief for which the writ petition had been preferred.

3. He accordingly submits that the impugned order, therefore, suffers from apparent errors on the face of record which are required to be reviewed in exercise of review jurisdiction.

4. Learned counsel for the Respondents-State, on the other hand, submits that a mere perusal of the order dated 23rd January, 2013 would show that the contentions and the prayers made by learned counsel for the petitioner were recorded explicitly in the first paragraph of the order. Even submission made on behalf of the Respondents-State, Mr. Ajit Kumar, learned Additional Advocate General is also reflected in the second paragraph of the order which was confined to direction upon the appropriate authority for taking a decision on the application seeking renewal of lease in accordance with law after receiving appropriate environmental clearance and no objection from the appropriate authority. The petitioner had consciously made submission that his lease stood expired on 2nd July, 2012 and his application for renewal of lease as also for no objection as well as environmental clearance were pending. It is submitted that in such circumstances the petitioner had made a submission that the Central Government may be directed to pass appropriate order on the application seeking environmental clearance as well as no objection. It is further submitted that the learned Single Judge while passing the order for which a review is being

sought, categorically also directed that status quo on the spot shall be maintained and no third party right shall be created by the parties. In sum and substance, it is the contention of the Respondents-State that the order passed by the learned Single Judge does not suffer from any error apparent on the face of record as it has been made on the specific submissions and prayers of the petitioner himself for directing the concerned authorities to take appropriate decision on his application seeking review as also no objection and environmental clearance from the appropriate authority.

5. I have heard learned counsel for the parties and gone through the order dated 23rd January, 2013 as also the prayer made by the petitioner in the main writ application. Prima facie it appears that the Revisional Court had passed an order to the effect that without obtaining the environmental clearance the petitioner had indulged in mining for the, relevant years 2010-11; 2011-12 and 2012-13 and in such circumstances directions were issued for undertaking steps for realization of the cost of the minerals. However, the petitioner while pressing his application chose to seek appropriate direction upon the competent authority for taking appropriate decision on his application seeking renewal of lease which stood expired on 2nd July, 2012 as also for direction upon the concerned authority for grant of proper environmental clearance and no objection certificate. Learned Single Judge in such circumstances passed the order by issuing direction upon the Central Government to take appropriate decision on the application of the petitioner seeking environmental clearance as well as no objection in accordance with law within a period of two months preferably. In similar manner, the other respondents were also directed to take appropriate decision in accordance with law on the application of the petitioner seeking renewal of mining lease within two months thereafter. Learned Single Judge also passed an order directing to maintain status quo on the spot and preventing creation of any third parties interest, in between. However, the petitioner was precluded from undertaking any mining activities in the mean time. These facts therefore clearly demonstrate that the order for which a review is being sought were passed on the specific submission of the petitioner as well as the contention of the respondents. However, if the petitioner was still aggrieved as his main prayer had not been considered or allowed, that may not be a ground for seeking a review of the order as the order of which review is being sought does not suffer from error apparent on the face of record and has been passed in presence of the parties upon hearing. Therefore the review petitioner has failed to make out a ground for review. Accordingly, the review application is dismissed.